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THADDEUS GABARA – PRO SE  
Complaint – Amended Once – 11-15-2019

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK**

THADDEUS GABARA,

Plaintiff,

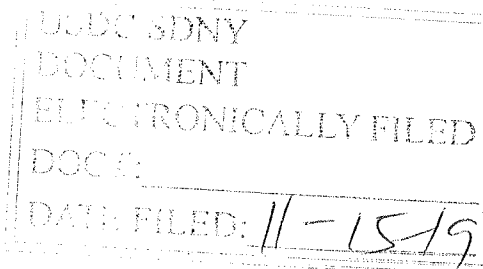
v.

FACEBOOK, INC.,

Defendant.

Case No: **19-CV-09890-DLC**

**ONCE AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT AND JURY  
DEMAND**



Plaintiff THADDEUS GABARA (“Gabara” or “Plaintiff”) sent correspondence to Mr. Mark Zuckerberg (Chairman and CEO of Facebook) that arrived via USPS at the Headquarters of Facebook, INC., on October 11, 2019 at 10:31AM containing an offer that may have averted the present situation. However, Gabara failed to receive any type of reply or correspondence by the deadline. The Plaintiff, using his ‘pro se’ rights, hereby brings this action for patent infringement against Defendant FACEBOOK, INC. (“Facebook” or “Defendant”). Gabara alleges the Defendant of infringing the following five validly issued patents (“Patents-in-Suit”): 1) U.S. Patent No. 8,930,131, titled “Method and Apparatus of Physically Moving a Portable Unit to View an Image of a Stationary Map;” 2) U.S. Patent No. 8,620,545, titled “Method and Apparatus of Physically Moving a Portable Unit to View an Image of a Stationary Map;” 3) U.S. Patent No. 8,836,698, titled “Method and Apparatus for Identifying a 3-D Object from A 2-D Display of a Portable Unit;” 4) U.S. Patent No. 8,706,400, titled “Method and Apparatus of Physically Moving a Portable Unit to View an Image of a Stationary Map,” 5) U.S. Patent No. 9,299,348, titled “Method and Apparatus for Obtaining Information from the Web.” A Table of Contents is provided as the last sheet of this document. The Defendant infringes as follows:

### **PARTIES**

1. Plaintiff maintains his principal place of residence in the city of Murray Hill, NJ 07974 with a mailing address of: Thaddeus Gabara, P.O. Box 512, New Providence, NJ 07974.
2. Defendant Facebook, Inc. is a Delaware corporation with a principal place of business at 1 Hacker Way, Menlo Park, California 94025. Facebook has an established brick and mortar business at 770 Broadway, Floor 8, New York, New York 10003.
3. Facebook also has a presence in the virtual world and owns and operates the

websites identified as ‘www.facebook.com’ and ‘facebook360.fb.com.’<sup>1</sup> On information and belief, Facebook requires users to register before the user is able to access any of the ‘platforms’ (offerings, products, social information, website services, etc.) available in Facebook’s virtual world. There are over 2.4 billion active Facebook users worldwide.

4. Facebook also has a Facebook page in the virtual world identified as ‘facebook.com/Facebook360.’ On information and belief, these website and Facebook pages market, offer, and distribute its ‘platforms’ to Facebook users. On information and belief, one example of these ‘platforms’ that Defendant’s website and Facebook page markets, offers, and distributes is identified as ‘Facebook 360.’

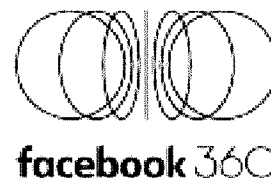


Figure 1. Logo of Facebook 360.

5. Facebook released *Facebook 360* on March 8, 2017. The logo for *Facebook 360* is shown in **Figure 1**. On Defendant’s website page<sup>2</sup>, Defendant announces that ‘Facebook 360’ is “A stunning and captivating way for publishers and content creators to share immersive stories, places

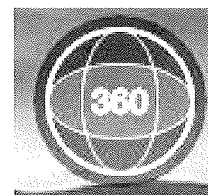


Figure 2. Facebook 360 icon.

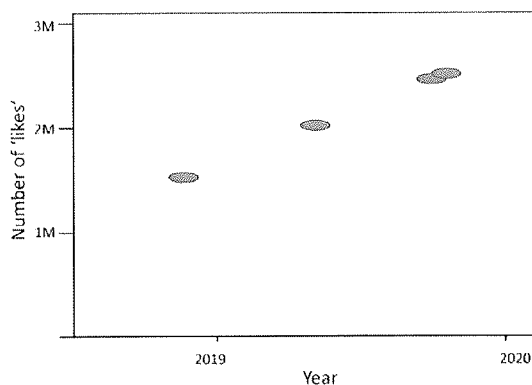


Figure 3A. Rapid growth of Facebook 360 likes.

and experiences with their fans.” On information and belief, when the Facebook user of the portable unit is logged into Facebook, *Facebook 360* is available and accessible to the portable unit if a *Facebook 360* icon (see **Figure 2**) becomes visible.

6. **Figure 3A** illustrates the number of Facebook ‘likes’ that the *Facebook 360*

Facebook page located at

<sup>1</sup> The leading text segment ‘https://’ may be suppressed in this document to simplify reciting the full web addresses.

<sup>2</sup> <https://facebook360.fb.com/>

'facebook.com/Facebook360' received during the past year. If the 50% growth of likes can be correlated to the growth of total member usage, *Facebook 360*'s future appears strong. **Table 1** presents the data of Facebook 'likes' extracted using the website called The WayBack Machine<sup>3</sup> (for the first three data points). The fourth data point was read from the live *Facebook 360* page.

<b>Facebook 360 'likes'</b>	
Date	# of likes
Nov. 20, 2018	1,592,493
Apr. 16, 2019	2,036,936
Sept. 25, 2019	2,366,422
Oct. 19, 2019	2,406,106
Extracted from: The Wayback Machine	

**Table 1. Wayback Machine Data.**

7. Facebook also rolled out another 'platform' called '*3D Photos*' on October 11, 2018 which they state "bring scenes to life with depth and movement" on a portable unit.<sup>4</sup> Facebook provides and their users use the *3D photos* icon as illustrated in **Figure 3B** to gain access to *3D photos*.



**Figure 3B. 3D photos icon.**

8. Facebook also has a Facebook page in the virtual world identified as 'workplace.com'. On information and belief, this Facebook website markets, offers, and distributes its 'platforms' to Facebook users. On information and belief, one example of these 'platforms' that Defendant's website and Facebook page markets, offers, and distributes is identified as '*Workplace by Facebook*.'

9. Facebook introduced '*Workplace by Facebook*'<sup>5</sup> on October 10, 2016, formally



**Figure 4A. Facebook's logo for Workplace by Facebook.**

known as 'Facebook at Work,' its logo is illustrated at the top in **Figure 4A**. In their opening line of this posted announcement, Facebook states "Connect everyone in your organization. Empower and transform your whole business, with features like groups, chat and video calls."

10. *Workplace by Facebook* supports the 'tools' of Instant Messaging, Lead

<sup>3</sup> <http://web.archive.org/web/20170518111929/https://www.facebook.com/Facebook360/>

<sup>4</sup> <https://facebook360.fb.com/2018/10/11/3d-photos-now-rolling-out-on-facebook-and-in-vr/>

<sup>5</sup> <https://www.workplace.com>

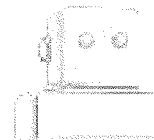
generation in Messenger, Auto-Translate, Collaboration Spaces, Org Chart, News Feed, Live Video, Video Conferencing and Integrations<sup>6</sup>.

11. *Workplace by Facebook* also supports and uses a virtual world called '*wit.ai*'<sup>7</sup>; the logo is illustrated in **Figure 4B**. On information and believe '*wit.ai, Inc.*' is a Facebook-owned company

**wit.ai**

**Figure 4B. The *wit.ai* logo.**

that is building an Artificial Intelligence (AI) platform to create apps that understand human language<sup>8</sup>. On their home page, *wit.ai* presents the following statement when the mouse is placed over the 'Bots' image, "Easily create text or voice based **bots** that humans can chat with on their preferred messaging platform." On information and belief, Facebook uses **bots** in *Workplace by Facebook*. A *wit.ai* icon of a **bot** is illustrated in **Figure 4C**.



**Figure 4C. Icon of the *wit.ai* bot.**

12. On information and belief, Facebook cites several companies that use *Workplace by Facebook* to take care of business. These include PricewaterhouseCoopers, Okta, Inc., Box, Inc.<sup>9</sup>, Walmart, Air Asia, Booking.com, Campbell's, Heineken, Spotify, Domino's, Starbucks, Algar Telecom, and 30,000 more global organizations<sup>10</sup>.

### NATURE OF THE ACTION

13. This is an action for infringement of United States Patent No. 8,930,131 ("the '131 patent"), of United States Patent No. 8,620,545 ("the '545 patent"), of United States Patent No. 8,836,698 ("the '698 patent"), of United States Patent No. 8,706,400 (the '400 Patent), and of United States Patent No. 9,299,348 (the '348 Patent) under the Patent Act, 35 U.S.C. § 271, et seq., based on Defendant's unauthorized commercial manufacture, use, importation, offer for sale, and sale of infringing products and services in the United States. This is a patent

<sup>6</sup> [https://www.workplace.com/?fbclid=IwAR1zC3yUYIuyBHbSJ87NI3Wfi22l\\_WaHeheLaBXarPVjFAkCy5BMZhEkbvs](https://www.workplace.com/?fbclid=IwAR1zC3yUYIuyBHbSJ87NI3Wfi22l_WaHeheLaBXarPVjFAkCy5BMZhEkbvs) then scroll down the page, just past the 'Taking care of business' section.

<sup>7</sup> <https://wit.ai/>

<sup>8</sup> <https://wit.ai/jobs>

<sup>9</sup> <https://www.facebook.com/workplace/partners>

<sup>10</sup> [https://www.workplace.com/?fbclid=IwAR1zC3yUYIuyBHbSJ87NI3Wfi22l\\_WaHeheLaBXarPVjFAkCy5BMZhEkbvs](https://www.workplace.com/?fbclid=IwAR1zC3yUYIuyBHbSJ87NI3Wfi22l_WaHeheLaBXarPVjFAkCy5BMZhEkbvs)

infringement action to stop Defendant's infringement of the '131 patent entitled "Method and Apparatus of Physically Moving a Portable Unit to View an Image of a Stationary Map," the '545 patent entitled "Method and Apparatus of Physically Moving a Portable Unit to View an Image of a Stationary Map," the '698 patent entitled "Method and Apparatus for Identifying a 3-D Object from a 2-D Display of a Portable Unit," the '400 patent entitled "Method and Apparatus of Physically Moving a Portable Unit to View an Image of a Stationary Map," and the '348 patent entitled "Method and Apparatus for Obtaining Information from the Web." Gabara seeks monetary damages and injunctive relief.

### **JURISDICTION**

14. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285.

15. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

16. This Court has original jurisdiction over Defendant because Defendant has engaged in systematic and continuous business activities in this District. As described below, Defendant has committed acts of patent infringement giving rise to this action within this District.

### **VENUE**

17. Venue is proper in this District under 28 U.S.C. § 1400(b) because Defendant has committed acts of patent infringement within the State of New York and has an established brick and mortar business located in New York City in Lower Manhattan, where Lower Manhattan is a part of this District. In addition, Gabara has suffered harm in this District.

## ASSIGNMENT AND RECORDING

18. On October 25, 2019, Helen Gabara, President of TrackThings LLC, assigned the following United States Patent Nos. 8,930,131; 8,620,545; 8,836,698; 8,706,400; and 8,532,919 (the “First Patent List”) from TrackThings LLC to Thaddeus Gabara, the Plaintiff.

19. The assignment of the “First Patent List” to the Plaintiff was recorded in the United States Patent and Trademark Office (USPTO) on October 25, 2019.

20. On November 9, 2019, Helen Gabara, President of TrackThings LLC, assigned the United States Application No. 13/013,886 and the United States Application No. 14/332,427, which later issued as United States Patent No. 9,299,348 from TrackThings LLC (the “Second Patent List”) to Thaddeus Gabara, the Plaintiff.

21. The assignment of the “Second Patent List” to the Plaintiff was recorded in the USPTO on November 9, 2019.

22. The “Patents-in Suit” comprises United States Patent Nos. 8,930,131; 8,620,545; 8,836,698; 8,706,400; and 9,299,348.

## PATENTS-IN-SUIT

23. On January 6, 2015, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 8,930,131 (“the ‘131 Patent” or “one of the Patents-in-Suit”), entitled “Method and Apparatus of Physically Moving a Portable Unit to View an Image of a Stationary Map.” A true and correct copy of the ‘131 Patent is attached as **Exhibit 1** and incorporated herein by reference.

24. The current application No. 14/257,349, now Pat. No. 8,930,131 (“the ‘131 Patent”), filed on Apr. 14, 2014, which is a continuation of application No. 14/097,386, filed on Dec. 5, 2013, now Pat. No. 8,706,400, which is a continuation of application No. 13/967,299,

filed on Aug. 14, 2013, now Pat. No. 8,620,545, which is a continuation of application No. 13/337,251, filed on Dec. 26, 2011, now Pat. No. 8,532,919. The '131 Patent claims the benefit of U.S. Patent Application No. 13/337,251 filed Dec. 26, 2011.

25. Gabara is the assignee of all rights, titles and interests in United States Patent No. 8,930,131 ("the '131 Patent") and all of its parent applications to and including United States Patent Application No. 13/337, 251 filed with a priority date of December 26, 2011.

26. The '131 Patent is valid and enforceable under United States Patent Laws.

27. On December 31, 2013, the USPTO duly and legally issued United States Patent No. 8,620,545 ("the '545 Patent"), entitled "Method and Apparatus of Physically Moving a Portable Unit to View an Image of a Stationary Map." A true and correct copy of the '545 Patent is attached as **Exhibit 2** and incorporated herein by reference.

28. The current application No. 13/967,299, now Pat. No. 8, 620,545 ("the '545 Patent"), filed on Aug. 14, 2013, which is a continuation of application No. 13/337,251, filed on Dec. 26, 2011, now Pat. No. 8,532,919. The '545 Patent claims the benefit of U.S. Patent Application No. 13/337,251 filed Dec. 26, 2011.

29. Gabara is the assignee of all rights, titles and interests in United States Patent No. 8,620,545 ("the '545 Patent") and all of its parent applications to and including United States Patent Application No. 13/337, 251 filed with a priority date of December 26, 2011.

30. The '545 Patent is valid and enforceable under United States Patent Laws.

31. On September 16, 2014, the USPTO duly and legally issued United States Patent No. 8,836,698 ("the '698 Patent"), entitled "Method and Apparatus for Identifying a 3-D Object from A 2-D Display of a Portable Unit." A true and correct copy of the '545 Patent is attached as **Exhibit 3** and incorporated herein by reference.



32. The current application No. 13/337,253, now Pat. No. 8, 836,698 (“the ‘698 Patent”), filed on Dec. 26, 2011. The ‘698 Patent claims the benefit of U.S. Patent Application No. 13/337,251 filed Dec. 26, 2011.

33. Gabara is the assignee of all rights, titles and interests in United States Patent No. 8,836,698 (“the ‘698 Patent”), its original United States Patent Application No. 13/337, 251 filed with a priority date of December 26, 2011.

34. The ‘698 Patent is valid and enforceable under United States Patent Laws.

35. On April 22, 2014, the USPTO duly and legally issued United States Patent No. 8,706,400 (“the ‘400 Patent”), entitled “Method and Apparatus of Physically Moving a Portable Unit to View an Image of a Stationary Map.” A true and correct copy of the ‘400 Patent is attached as **Exhibit 4** and incorporated herein by reference.

36. The current application No. 14/097,386, now Pat. No. 8, 706,400 (“the ‘400 Patent”), filed on Dec. 5, 2013 which is a continuation of application No. 13/967,299, filed on Aug. 14, 2013, now Pat. No. 8,620,545, which is a continuation of application No. 13/337,251, filed on Dec. 26, 2011, now Pat. No. 8,532,919. The ‘400 Patent claims the benefit of U.S. Patent Application No. 13/337,251 filed Dec. 26, 2011.

37. Gabara is the assignee of all rights, titles and interests in United States Patent No. 8,706,400 (“the ‘400 Patent”), its original United States Patent Application No. 13/337, 251 filed with a priority date of December 26, 2011.

38. The ‘400 Patent is valid and enforceable under United States Patent Laws.

39. Gabara is the assignee of all rights, titles and interests in United States Patent No. 8,532,919, its original United States Patent Application No. 13/337, 251 filed with a priority date of December 26, 2011. The ‘919 Patent establishes a proper parentage to the priority date

for the '131 Patent, the '545 Patent, and the '400 Patent of the Patents-in-Suit.

40. Gabara is the assignee of all rights, titles and interests in United States Patent No. 8,532,919, its original United States Patent Application No. 13/337, 251 filed with a priority date of December 26, 2011.

41. The United States Patent No. 8,532,919 is valid and enforceable under United States Patent Laws.

42. On March 29, 2016, the USPTO duly and legally issued United States Patent No. 9,299,348 ("the '348 Patent"), entitled "Method and Apparatus for Obtaining Information from the Web." A true and correct copy of the '348 Patent is attached as **Exhibit 5** and incorporated herein by reference.

43. The current application No. 14/332,427, now Pat. No. 9, 299,348 ("the '348 Patent"), filed on Jul. 16, 2014, which is a continuation of application No. 13/013,886, filed on Jan. 26, 2011. The '348 Patent claims the benefit of the priority date of the U.S. Patent Application 13/013,886 filed Jan. 26, 2011.

44. Gabara is the assignee of all rights, titles and interests in United States Patent No. 9,299,348, its original United States Patent Application No. 14/332, 427 filed with a priority date of January 26, 2011.

45. The '348 Patent is valid and enforceable under United States Patent Laws.

46. Gabara is the assignee of all rights, titles and interests in United States Patent Application No. 13/013,886 filed with a priority date of January 26, 2011. The United States Patent Application No. 13/013,886 establishes a proper parentage to the priority date for the '348 Patent within the Patents-in-Suit.

47. Gabara holds all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patents-in-Suit.

48. Accordingly, Gabara, a common inventor of the '131 Patent, the '545 Patent, the '698 Patent, the '400 Patent, and the '348 Patent is exercising his 'pro se' litigant rights and possesses the exclusive right and standing to prosecute the present action for infringement of the Patents-in-Suit by Defendant.

49. The priority date of the '400 Patent, the '545 Patent, the '698 Patent, and the '400 Patent of the Patents-in-Suit is Dec. 26, 2011.

50. The priority date of the '348 Patent of the Patents-in-Suit is Jan. 26, 2011.

51. The Patents-in-Suit comprises the following patents: the '131 Patent; the '545 Patent; the '698 Patent; the '400 Patent; and the '348 Patent.

#### **PREVIOUS ATTEMPTS TO CONTACT FACEBOOK**

52. Plaintiff has attempted more than once to resolve this dispute without resorting to litigation.

53. Defendant's use of Gabara's invention and infringement of the Patents-in-Suit is occurring at Gabara's expense.

54. Gabara first reached out to Defendant's CEO Mark Zuckerberg in November 2017 regarding the sale of a patent portfolio with nine patents. Four of those nine patents are included in the present Patents-in-Suit. Plaintiff received no response from Facebook after initiating this first attempt of contact and sale, about two years ago.

55. Gabara secondly reached out to Defendant's CEO Mark Zuckerberg in August 2018 once again regarding the sale of the patent portfolio that included four of the patents in the Patents-in-Suit. Plaintiff received no response from Facebook after initiating this second attempt

of contact and sale, about one year ago.

56. Gabara thirdly reached out to Defendant's CEO Mark Zuckerberg on October 11, 2019 – regarding the sale of the patent portfolio comprising the nine patents, four which are included in the Patents-in-Suit. This third correspondence also included a similar copy of **Exhibit 6** which is the '131 Patent's mapping to *Facebook 360*. Plaintiff failed to receive any response from Facebook within the specified deadline. After the deadline had expired, the Plaintiff filed the original Complaint in the United States District Court of the Southern District of New York on Oct. 25, 2019. This amended Complaint is being filed today.

57. Gabara seeks to redress for the harm caused by Defendant's unlawful use of Gabara's intellectual property (IP).

### **COUNT 1: 'FACEBOOK 360' INFRINGEMENT OF THE '131 PATENT IN THE PATENTS-IN-SUIT**

58. Gabara re-alleges and incorporates by reference the allegations of the paragraphs of this Complaint as though fully set forth herein.

59. **Direct Infringement.** Defendant knowingly and actively aided and abetted the direct infringement of one or more claims of the '131 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, that infringe at least exemplary **claims 1-6, 8-13, and 15-20** of the '131 Patent (the " '131 Patent Claims") literally or by the doctrine of equivalence. *Facebook 360* when used on portable units directly and/or indirectly develops, designs, manufactures, distributes, markets, offers to sell and/or sells infringing products and services in the United States, including in the District of Southern New York, and otherwise purposefully directs infringing activities to this District in connection with its products and services.

60. On information and belief, numerous other services that Facebook offers, such as, Instagram, WhatsApp, News Feed, Facebook Live, Video, Instant Articles, Branded Content, Messenger, Today in Availability, Pages, Audience Network, Ad Breaks, and Ads on Facebook, also infringe the claims of the '131 Patent and have been made, used, sold, imported, and offered for sale by Defendant and/or its users when used with *Facebook 360*.

61. Despite such actual knowledge, Defendant continues to make, use, test, sell, offer for sale, market, and/or import into the United States, products that infringe the '131 Patent. On information and belief, Defendant has also continued to distribute product literature and website materials inducing end users and others to use its products in the customary and intended manner that infringes the '131 Patent. Thus, on information and belief, Defendant is directly infringing, contributing to and/or inducing the infringement of the '131 Patent.

62. Defendant infringes **claim 8** of the '131 patent, as presented below. Facebook has posted a repeating video that the Plaintiff has used to demonstrate the infringement of Plaintiff's Patents-in-Suit. One of the starting frames of the posted video is illustrated in **Figure 5**. This video continuously repeats at the top of the webpage.<sup>11</sup>



**Figure 5.** The opening of the *Facebook 360 Photos* 'video' comprising frames 135 and 149 starts with this view.

63. In the following description, the claim elements are recited in *italics*, while the

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<sup>11</sup> <https://facebook360.fb.com/360-photos/> The proper operation of the video seems to be platform dependent, replacing the video, in some cases, with an unchanging image on some Android phones.

frames 135 and 149 were selected from the video<sup>12</sup> illustrated in **Figure 5** and are used to depict the infringement.

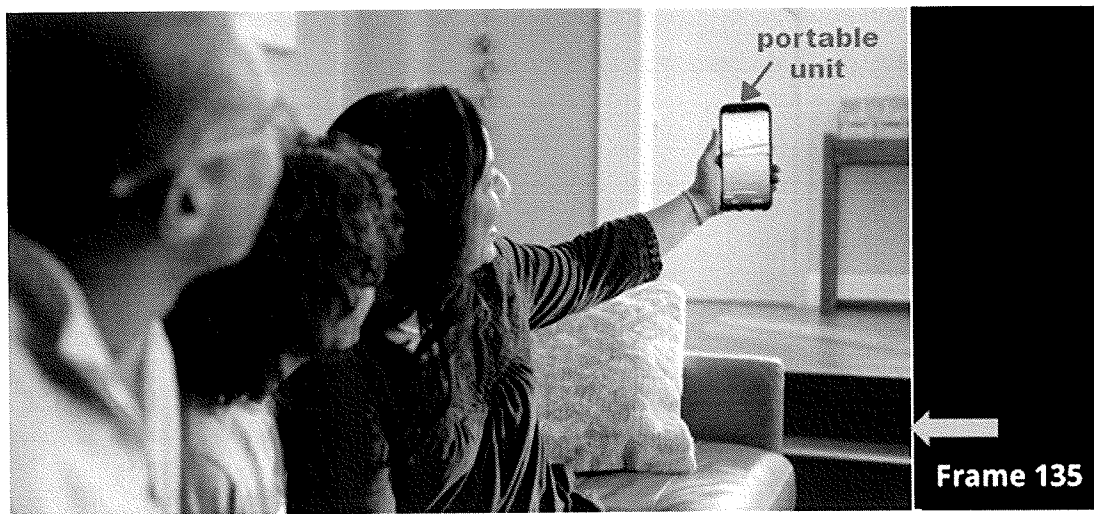


Figure 6. A portable unit ...

64. “A *portable unit* comprising.” In Figure 6, frame 135 presents the **portable unit**.



Figure 7. ...a first portion of a stat...

65. “a *first portion of a stationary background image*” In Figure 7, the

<sup>12</sup> Frame 135 and frame 149 were selected from the video using Blender (a free and open source 3D creation suite). The video was posted by Facebook on their website *Facebook 360*: web address = <https://facebook360.fb.com/360-photos> The frames were extracted from Facebook’s site on 10/8/19; The video can also be accessed directly at: <https://s0.wp.com/wp-content/themes/vip/fbspherical/media/360-panorama-loop-v2.mp4>

**stationary background image** is indicated by white dashed box as highlighted by the white arrows in frame 135. A **first portion** is a portion of the **stationary background image**.

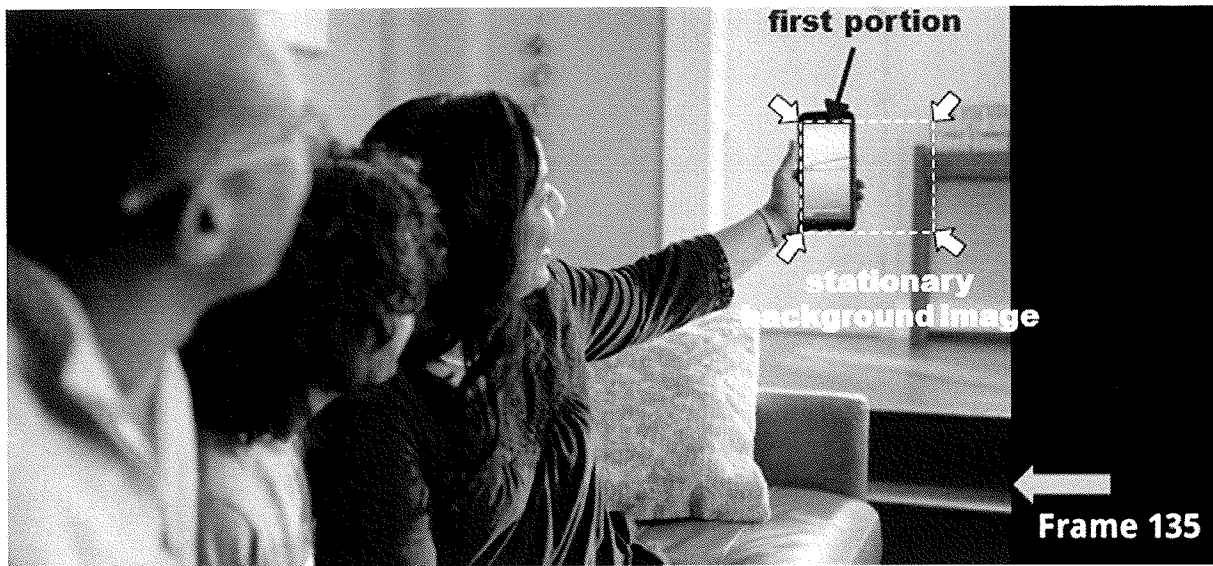


Figure 8. ...displayed on a screen ...

66. “displayed on a screen of the portable unit,” In Figure 8, the **first portion** is displayed on the **screen** of the portable unit.

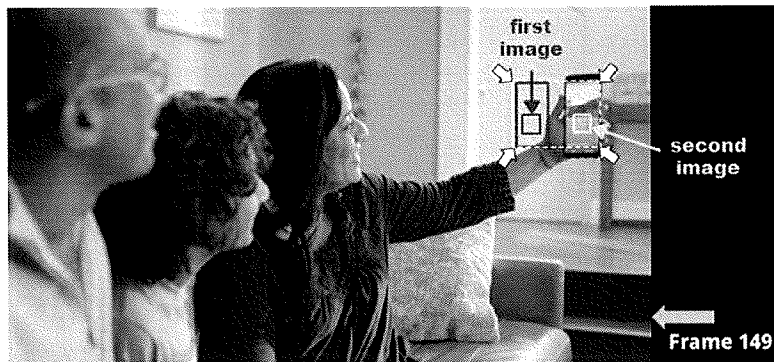


Figure 9. ... a first image and a sec...

67. “a **first image** and a **second image** located in the **stationary background image**,” Both **first image** and **second image** are within the white **stationary background image** section (See Figure 9).

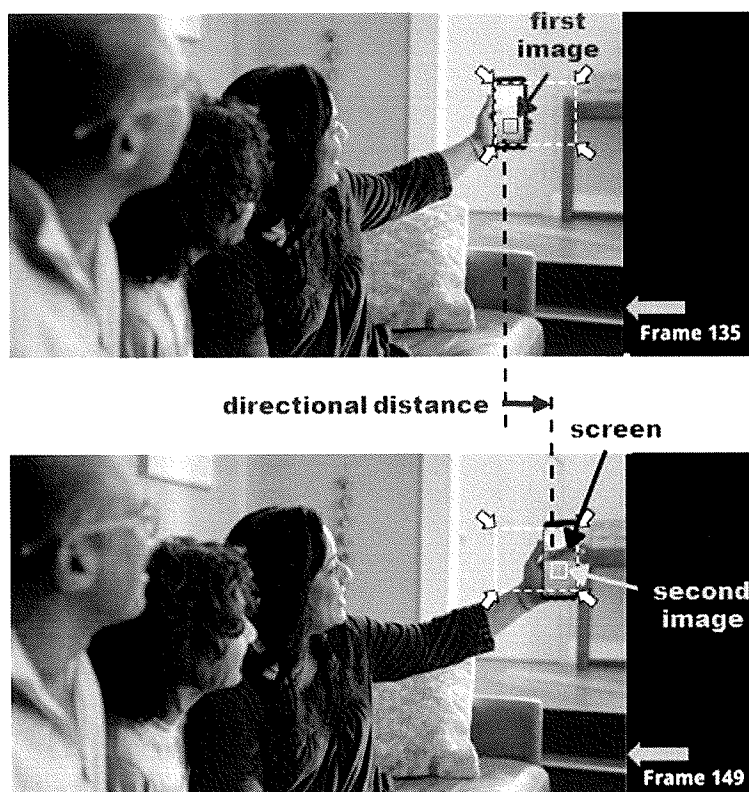


Figure 10. ...the second image in the stat...

68. “the **second image** in the stationary background image displaced from the first image in the stationary background image by a **directional distance**,” Comparing Frames 135 and 149 in **Figure 10**, the **directional distance** includes the distance and direction between the **first image** and the **second image**.

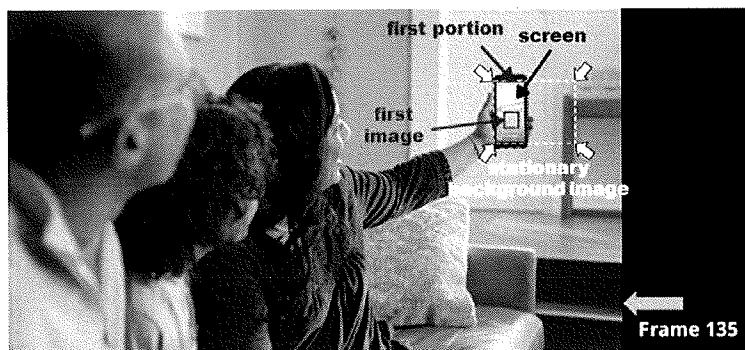


Figure 11. ...the first image in the first ...

69. “the **first image** in the first portion of the stationary background image displayed on the screen of the portable unit, wherein” In **Figure 11**, the **first image** is visible



on the **screen** of the portable unit.

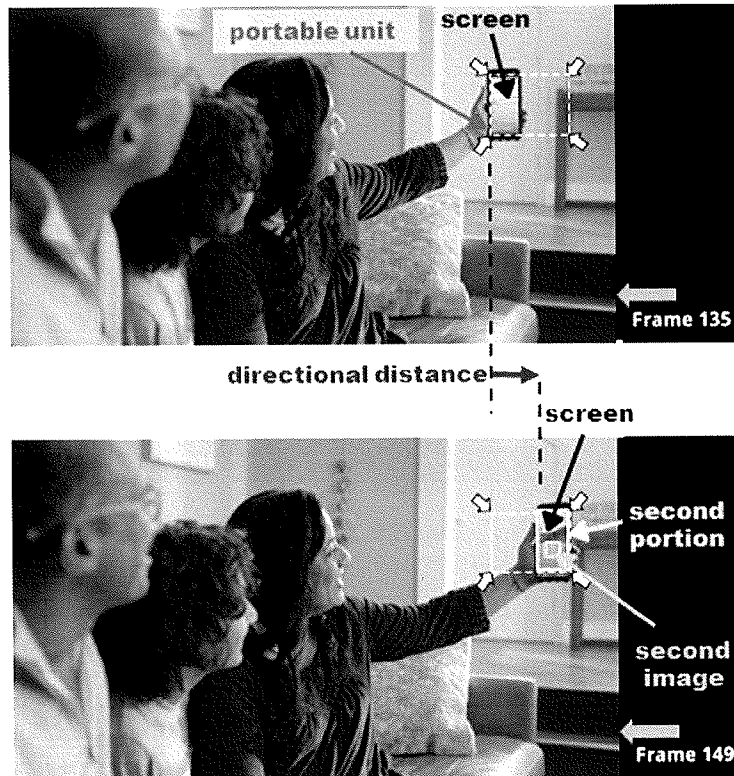


Figure 12. ...the portable unit is mov...

70. “the **portable unit** is **moved** in at least one of the **orientations** of the **directional distance** to display on the **screen** of the **portable unit** the **second image** located in a **second portion** of the **stationary background image**.” In **Figure 12**, by comparing slides 135 and 149, the **portable unit** moved in at least one of the **orientations** of the **directional distance** across the **stationary background image** between slide 135 and slide 149. Doing so caused the **second image** to be displayed on the **screen** of the **portable unit**.

71. **Exhibit 6** presents a claim chart comparing the Exemplary ‘131 Patent Claims to *Facebook 360*. As set forth in the claim chart, *Facebook 360* practices the technology claimed by the ‘131 Patent. Accordingly, *Facebook 360* being incorporated in these charts satisfies all elements of the Exemplary ‘131 Patent Claims.

72. **Induced Infringement.** Defendant actively, knowingly, and intentionally has

been and continues to induce infringement of the ‘131 Patent, literally or by the doctrine of equivalence, by offering products and services to their users for use in end-user products in a manner that infringes one or more claims of the ‘131 Patent. For example, Facebook induces users to commit patent infringement by providing on its website page<sup>13</sup> a list of 14 different 360 Cameras that can be used with Facebook’s product and service *Facebook 360*. These 360 Cameras comprise: Panono, RICOH THETAS, SP360 4K, Z CAMS1, 360FLY 4K Pro, VIRB360, GiropticIO, Insta360 Air, Insta360 Nano, Insta360 Pro, ION360 U, LG 360 CAM(R105), MOTO 360 Camera, and Nokia Ozo.

73. **Contributory Infringement.** Defendant actively, knowingly, and intentionally has been and continues materially contribute to their own user’ infringement of the ‘131 Patent, literally or by the doctrine of equivalence, by offering products or services to their users for use in end-user products in a manner that infringes one or more claims of the ‘131 Patent. Facebook contributes to users committing patent infringement by providing on its website page ‘facebook360.fb.com/learn/’ a list of 14 different 360 Cameras that can be used with Facebook’s product and service called *Facebook 360* (see above).

74. **Exhibit 6** presents *Facebook 360* practicing the technology claimed by the ‘131 Patent. Accordingly, *Facebook 360* being incorporated in the claim chart satisfies all elements of the Exemplary ‘131 Patent Claims.

75. Gabara therefore incorporates by reference in its allegations herein the claim chart of **Exhibit 6**.

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<sup>13</sup> <https://facebook360.fb.com/learn/>

**COUNT 2: 'FACEBOOK 360' INFRINGEMENT OF THE '545  
PATENT IN THE PATENTS-IN-SUIT**

76. Gabara re-alleges and incorporates by reference the allegations of the paragraphs 1-57 of this Complaint as though fully set forth herein.

77. **Direct Infringement.** Defendant knowingly and actively aided and abetted the direct infringement of one or more claims of the '545 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, that infringe at least exemplary **claims 1, 3-7, 8-10, 12-15, and 16-18, and 20-22** of the '545 Patent (the " '545 Patent Claims") literally or by the doctrine of equivalence. *Facebook 360* when used on portable units directly and/or indirectly develops, designs, manufactures, distributes, markets, offers to sell and/or sells infringing products and services in the United States, including in the District of Southern New York, and otherwise purposefully directs infringing activities to this District in connection with its products and services.

78. On information and belief, numerous other services that Facebook offers, such as, Instagram, WhatsApp, News Feed, Facebook Live, Video, Instant Articles, Branded Content, Messenger, Today in Availability, Pages, Audience Network, Ad Breaks, and Ads on Facebook, also infringe the claims of the '545 Patent and have been made, used, sold, imported, and offered for sale by Defendant and/or its users when used with *Facebook 360*.

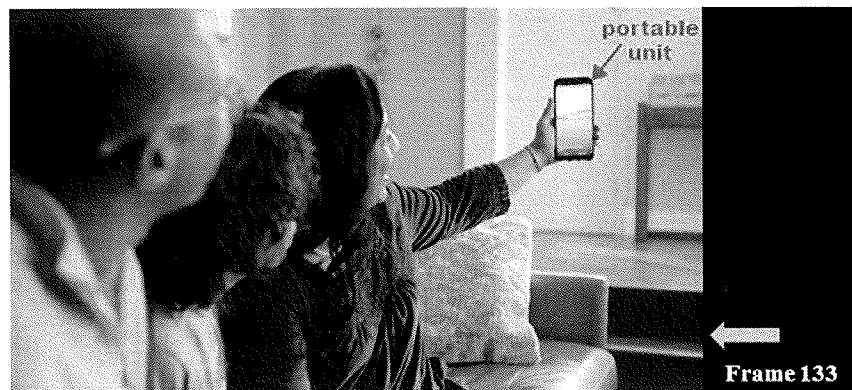
79. Despite such actual knowledge, Defendant continues to make, use, test, sell, offer for sale, market, and/or import into the United States, products that infringe the '545 Patent. On information and belief, Defendant has also continued to distribute product literature and website materials inducing end users and others to use its products in the customary and intended manner that infringes the '545 Patent. Thus, on information and belief, Defendant is directly infringing, contributing to and/or inducing the infringement of the '545 Patent.

80. Defendant infringes **claim 1** of the '545 patent, as presented below. Facebook has posted a repeating video that the Plaintiff has used to demonstrate the infringement of Plaintiff's Patents-in-Suit. One of the starting frames of the posted video is illustrated in **Figure 13**. This video continuously repeats at the top of the webpage.<sup>14</sup>



**Figure 13.** The opening of the *Facebook 360 Photos* 'video' comprising frames 133 and 174 starts with this view.

81. In the following description, the claim elements are recited in *italics*, while the frames 133 and 174 were selected from the video<sup>15</sup> illustrated in **Figure 13** and are used to depict the infringement.



**Figure 14.** A portable unit ...

82. "*A portable unit comprising:*" In **Figure 14**, the image of frame 133 presents

<sup>14</sup> <https://facebook360.fb.com/360-photos/> The proper operation of the video seems to be platform dependent, replacing the video, in some cases, with an unchanging image on some Android phones.

<sup>15</sup> Frames 133 and 174 were selected from the video using Blender (a free and open source 3D creation suite). The video was posted by Facebook on their website *Facebook 360*: web address = <https://facebook360.fb.com/> The frames were extracted from Facebook's site on 10/20/19; The video can also be accessed directly at: [https://s0.wp.com/wp-content/themes/vip/fbspherical/media/home\\_bg\\_video\\_720.mp4](https://s0.wp.com/wp-content/themes/vip/fbspherical/media/home_bg_video_720.mp4)

the portable unit.

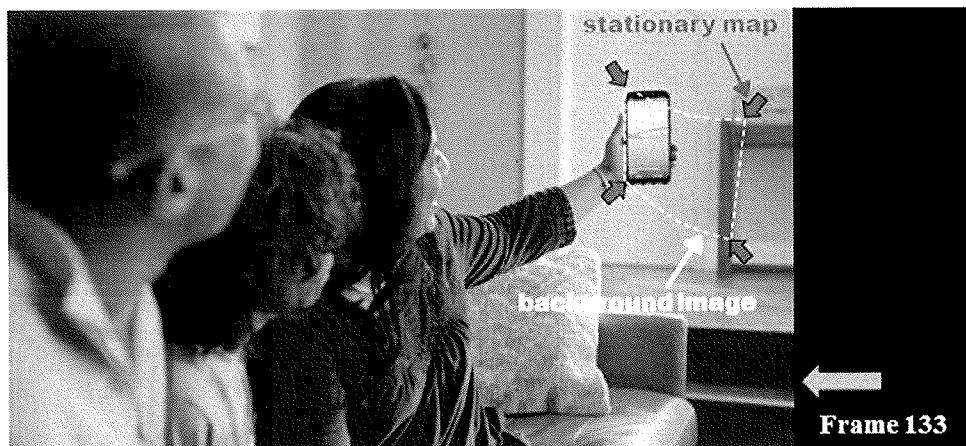


Figure 15. ... a background image of a stat...

83. “a background image of a stationary map at a given scale;” In Figure 15, frame 133 illustrates the **background image** indicated by the white dashed box. The stationary map is indicated by the aqua arrows indicating the immobile corners of the background image. The **background image** is at a given scale.

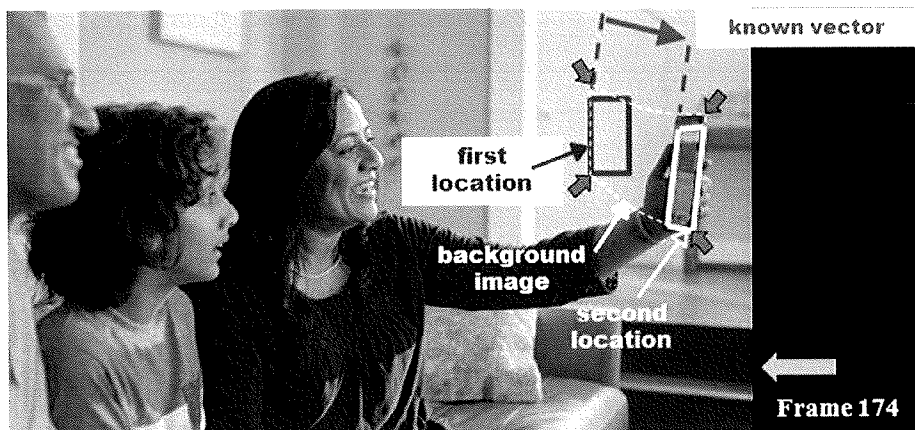


Figure 16. ...a second location in the back...

84. “a second location in the background image displaced from a first location in the background image by a known vector;” In Figure 16, the frame 174 shows the **portable unit** in a **second location**. The **second location** is within the **background image**. The **first location** indicates where the **portable unit** was in frame 133. Note that the **second location** is displaced from the **first location** by a **known vector**.

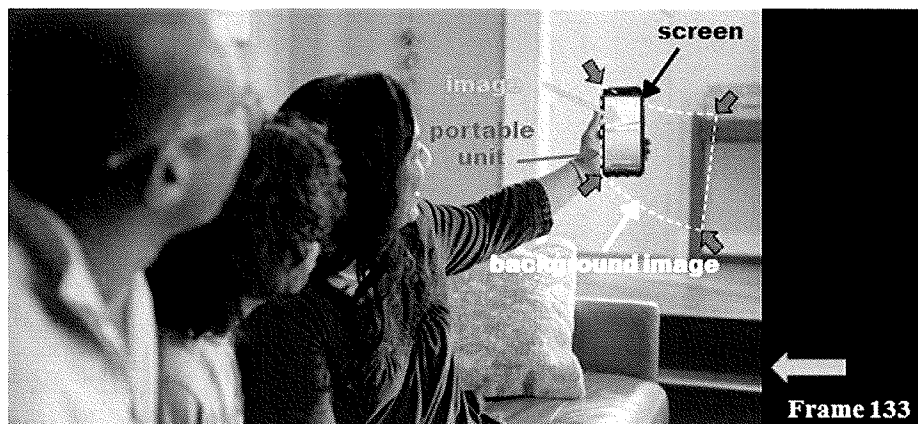


Figure 17. ... an image display...

85. “an **image** displayed at the given scale on a **screen** of the **portable unit** and the **background image** at the given scale are matched and remains superimposed over one another;” The **image** presented on the **screen** of the **portable unit** matches and is superimposed over the **background image** (See Figure 17). The **scale** of the **image** matches the **scale** of the **background image**.

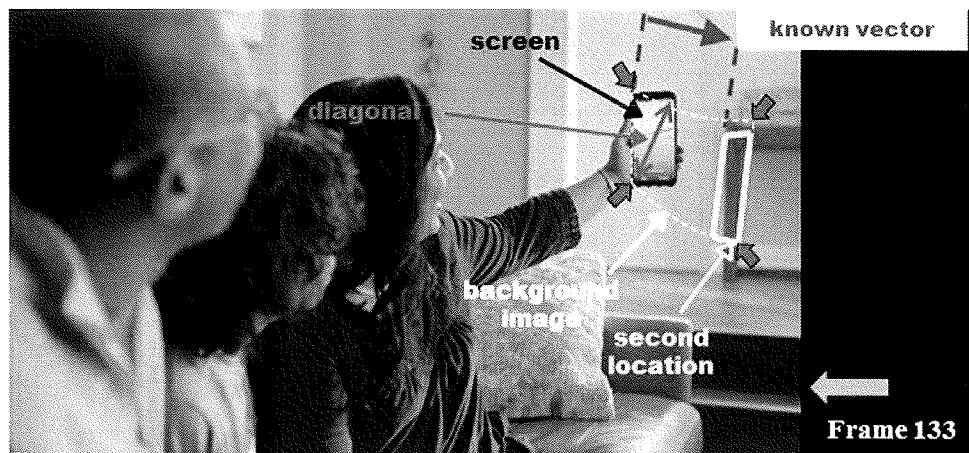


Figure 18. ...a diagonal of the screen le...

86. “a **diagonal** of the **screen** less than a distance of the **known vector**; and” The **diagonal** of the **screen** is less than the distance of the **known vector** between the **first location** and the **second location** as shown in Figure 18.

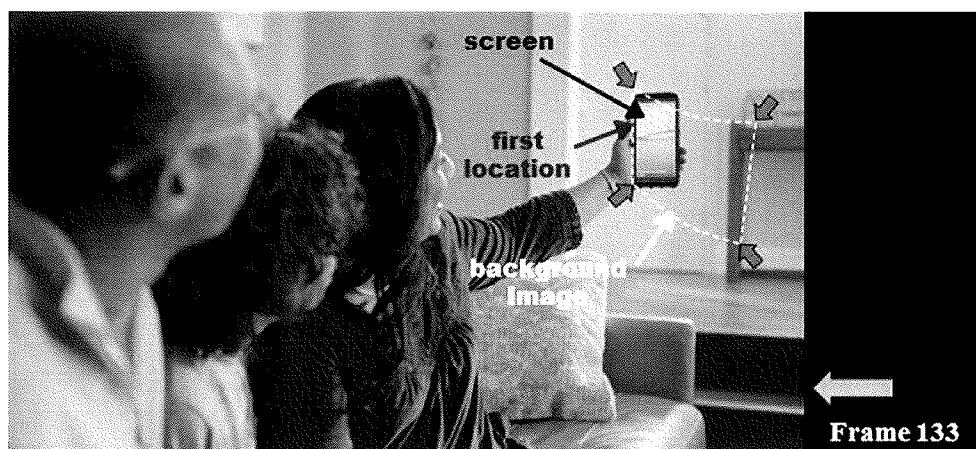


Figure 19. ...only the first location in the back...

87. “only the *first location in the background image* displayed on the screen at the known scale, wherein” In **Figure 19**, the portion of the **background image** corresponding to the **first location** is displayed on the **screen** and is visible on the **screen** in a one-to-one scale.

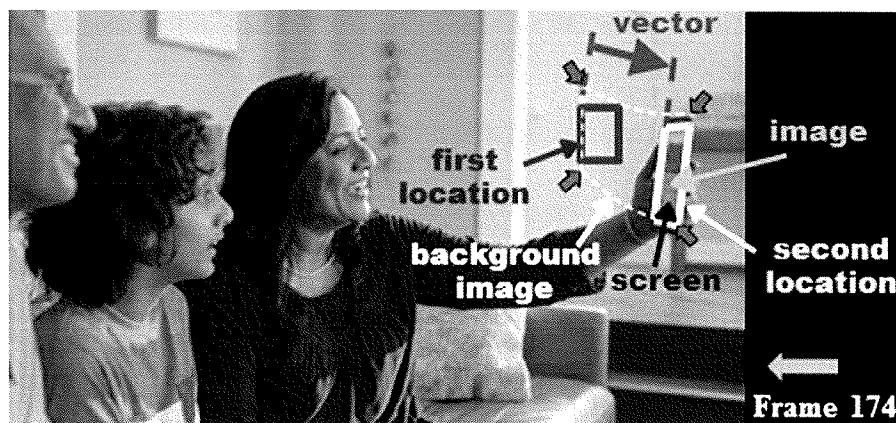
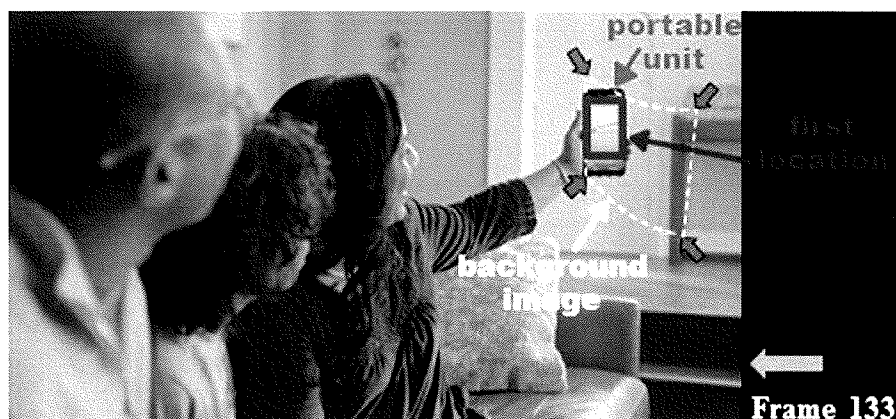


Figure 20. ...the portable unit is mov...

88. “the **portable unit** is moved along the known vector until the **image** containing the **second location** is displayed on the screen.” In **Figure 20**, by comparing slides 133 and 174, the **portable unit** moved along the **known vector** across the **background image** between these two slides. Doing so caused the **second location** to be displayed on the **screen** of the **portable unit**.

89. **Exhibit 7** presents a claim chart comparing the Exemplary ‘545 Patent Claims to *Facebook 360*. As set forth in the claim chart, *Facebook 360* practices the technology claimed by the ‘545 Patent. Accordingly, *Facebook 360* being incorporated in these charts satisfies all elements of the Exemplary ‘545 Patent Claims.

90. **Induced Infringement.** Defendant actively, knowingly, and intentionally has been and continues to induce infringement of the ‘545 Patent, literally or by the doctrine of equivalence, by offering products and services to their users for use in end-user products in a manner that infringes one or more claims of the ‘545 Patent. For example, Facebook induces users to commit patent infringement by providing on its website page<sup>16</sup> a list of 14 different 360 Cameras that can be used with Facebook’s product and service *Facebook 360*. These 360 Cameras comprise: Panono, RICOH THETAS, SP360 4K, Z CAMS1, 360FLY 4K Pro, VIRB360, GiropticIO, Insta360 Air, Insta360 Nano, Insta360 Pro, ION360 U, LG 360 CAM(R105), MOTO 360 Camera, and Nokia Ozo.

91. **Contributory Infringement.** Defendant actively, knowingly, and intentionally has been and continues materially contribute to their own user’ infringement of the ‘545 Patent, literally or by the doctrine of equivalence, by offering products or services to their users for use in end-user products in a manner that infringes one or more claims of the ‘545 Patent. Facebook contributes to users committing patent infringement by providing on its website page ‘facebook360.fb.com/learn/’ a list of 14 different 360 Cameras that can be used with

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<sup>16</sup> <https://facebook360.fb.com/learn/>



Facebook's product and service *Facebook 360* (see above).

92. **Exhibit 7** presents *Facebook 360* practicing the technology claimed by the '545 Patent. Accordingly, *Facebook 360* being incorporated in the claim chart satisfies all elements of the Exemplary '545 Patent Claims.

93. Gabara therefore incorporates by reference in its allegations herein the claim chart of **Exhibit 7**.

94. Gabara is entitled to recover damages adequate to compensate for Defendant's infringement.

### **COUNT 3: 'FACEBOOK 360' INFRINGEMENT OF THE '698 PATENT IN THE PATENTS-IN-SUIT**

95. Gabara re-alleges and incorporates by reference the allegations of the paragraphs 1-57 of this Complaint as though fully set forth herein.

96. **Direct Infringement.** Defendant knowingly and actively aided and abetted the direct infringement of one or more claims of the '698 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, that infringe at least exemplary **claims 1-6, 8-13, and 15-18** of the '698 Patent (the " '698 Patent Claims") literally or by the doctrine of equivalence. *Facebook 360* when used on portable units directly and/or indirectly develops, designs, manufactures, distributes, markets, offers to sell and/or sells infringing products and services in the United States, including in the District of Southern New York, and otherwise purposefully directs infringing activities to this District in connection with its products and services.

97. On information and belief, numerous other services that Facebook offers, such as, Instagram, WhatsApp, News Feed, Facebook Live, Video, Instant Articles, Branded Content, Messenger, Today in Availability, Pages, Audience Network, Ad Breaks, and Ads on Facebook, also infringe the claims of the '698 Patent and have been made, used, sold, imported, and offered for sale by Defendant and/or its users when used with *Facebook 360*.

98. Despite such actual knowledge, Defendant continues to make, use, test, sell, offer for sale, market, and/or import into the United States, products that infringe the '698 Patent. On information and belief, Defendant has also continued to distribute product literature and website materials inducing end users and others to use its products in the customary and intended manner that infringes the '698 Patent. Thus, on information and belief, Defendant is directly infringing, contributing to and/or inducing the infringement of the '698 Patent.

99. Defendant infringes **claim 8** of the '698 patent, as presented below. Facebook has posted a repeating video that the Plaintiff has used to demonstrate the infringement of Plaintiff's Patents-in-Suit. One of the starting frames of the posted video is illustrated in **Figure 21**. This video continuously repeats at the top of the webpage.<sup>17</sup>

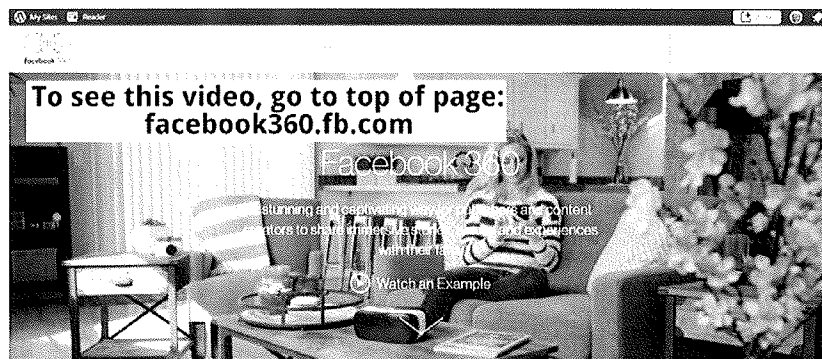


Figure 21. Frames from the *Facebook 360* 'video' located at the top of the page are extracted and used to show infringement of Plaintiff's Patents-in-Suit.

100. In the following description, the claim elements are recited in *italics*, while

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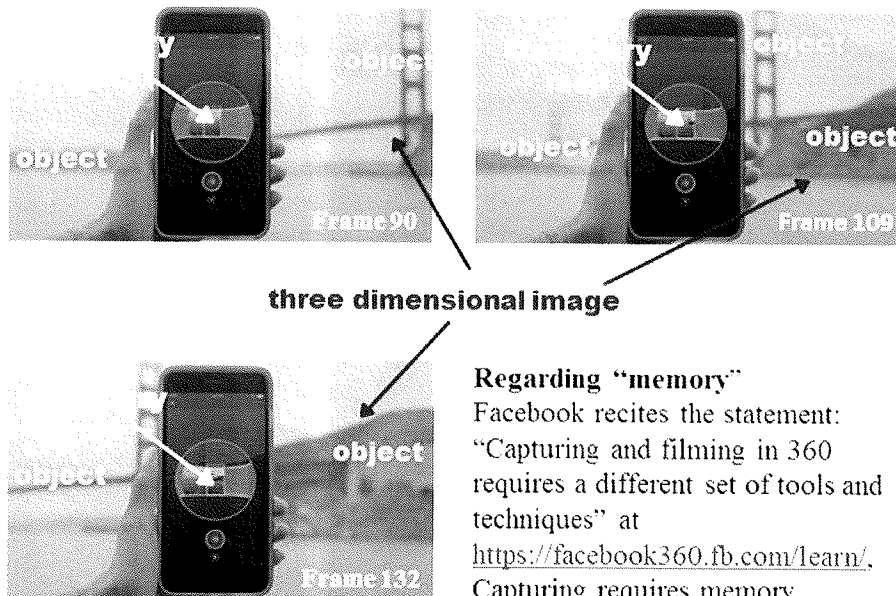
<sup>17</sup> <https://facebook360.fb.com/> The proper operation of the video seems to be platform dependent, replacing the video, in some cases, with an unchanging image on some Android phones, if so, try a desktop computer.

various frames selected from the video<sup>18</sup> illustrated in **Figure 21** and are used to describe the infringement. Several frames from the previous video<sup>19</sup> are also used to describe the infringement.



**Figure 22. A portable unit ...**

101. *“A portable unit comprising.”* In **Figure 22**, frame 227 presents the **portable unit**.



**Figure 23. ... a three dimensional image of a stat...**

102. *“a three dimensional image of a stationary map coupled to a memory containing an object;”* In **Figure 23**, the **three dimensional image** contains the **object**, where the **object** comprises the bridge, the water, the sky, the land, etc. The **stationary map** shown on

<sup>18</sup> Frames 133 and 174 were selected from the video using Blender (a free and open source 3D creation suite). The video was posted by Facebook on their website *Facebook 360*: web address = <https://facebook360.fb.com/> The frames were extracted from Facebook’s site on 10/20/19; The video can also be accessed directly at: [https://s0.wp.com/wp-content/themes/vip/fbspherical/media/home\\_bg\\_video\\_720.mp4](https://s0.wp.com/wp-content/themes/vip/fbspherical/media/home_bg_video_720.mp4)

<sup>19</sup> <https://facebook360.fb.com/360-photos/>

the **screen** is coupled to a **memory**, as taught by Facebook (see inset), where “capturing” would require **memory** to perform this operation.<sup>20</sup>

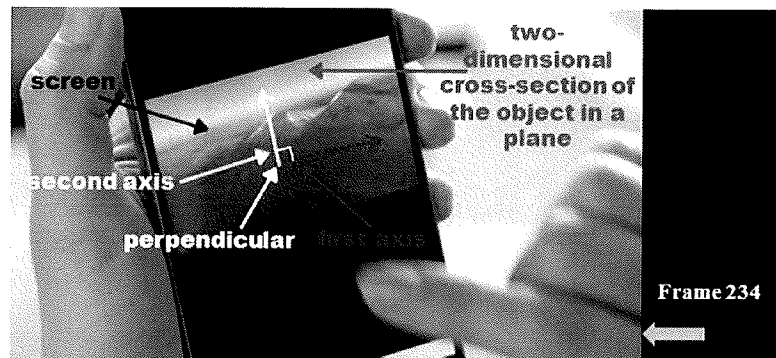


Figure 24. ...a screen displays a two-dim...

103. “a screen displays a *two-dimensional cross-section of the object in a plane* containing a *first axis* and a *second axis*, wherein the *second axis* is *perpendicular* to the *first axis* and.” In **Figure 24**, the **two-dimensional cross-sectional** of the object is displayed on the the **plane** of the **screen**. The **first axis** and the **second axis** are illustrated in the plane and are **perpendicular** to each other.

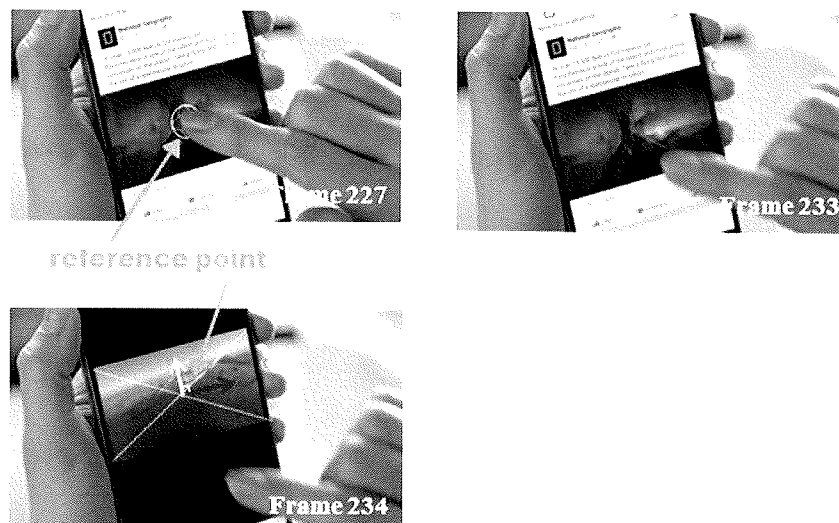


Figure 25. ...intersects at a refer...

<sup>20</sup> The Frames 90, 109, and 132 used in **Figure 23**, were selected from the video at top of page  
[‘https://facebook360.fb.com/360-photos/’](https://facebook360.fb.com/360-photos/)

104. “*intersects at a reference point;*” The **reference point** is where the Facebook user in Frame 227 starts the feature *Facebook 360* running (See **Figure 25**). Shortly thereafter (7 frames later, see Frame 233 and 234) the **two-dimensional cross-section** containing the **first axis** and the **second axis** are established at or near this **reference point**.

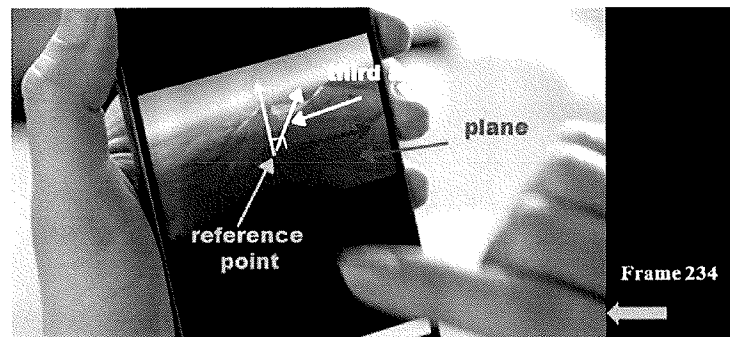


Figure 26. ...a third axis perpend...

105. “*a third axis perpendicularly intersects the plane at the reference point;*” In **Figure 26**, the **third axis** is shown perpendicular to the **plane**.

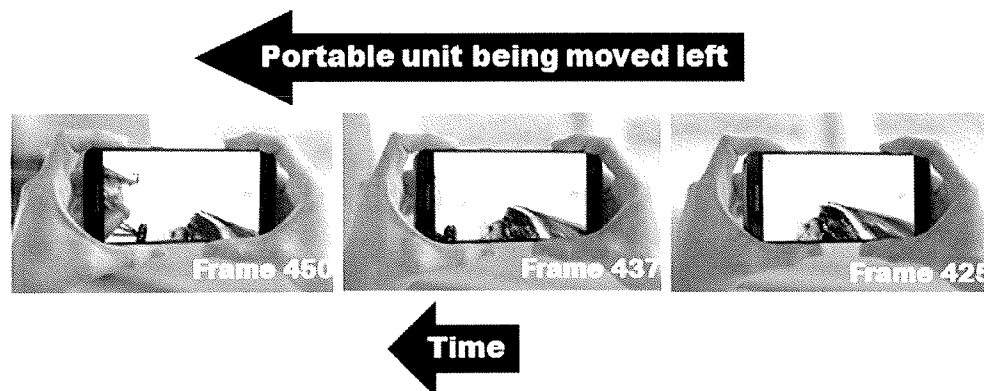


Figure 27. ... a microprocessor coupled to an...

106. “*a microprocessor coupled to an inertial guidance system provides movement data;*” In **Figure 27**, as the portable unit is moved to the left (Frame 425 -> Frame -> 437 -> Frame 450), new portions of the **stationary map** are presented on the screen. Facebook teaches in their video (via Frames 425 through 450) that as the **portable unit** is moved, new portions of a **stationary map** are exposed on the **screen**. On information and belief, these new portions of

the **stationary map** this **portable unit** uses an **inertial guidance system** (**three-axis gyro** and/or an **accelerometer**) together with a **processor** or equivalent to provide **movement data**.

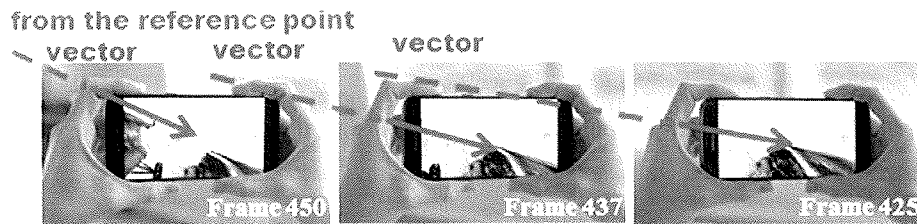


Figure 28. ...the microprocessor config...

107. “the **microprocessor** configured to calculate a **vector** along a path in any direction, from the **reference point**; and” In **Figure 28**, Facebook requires that the **portable units** used for *Facebook 360* needs to have minimal requirements in terms of sensor capability. Facebook<sup>21</sup> teaches that Facebook 360 must meet a minimum specification for the portable unit to operate. The iOS version must be greater than or equal to version 5S<sup>22</sup>, and the Android version requires a version 4.4 or greater<sup>23</sup>. Both versions of smartphones offer an **inertial guidance system** comprising at least a **three-axis gyro** and **accelerometer**.

108. On information and belief, these sensors are used to calculate the **vector** based on the **reference point**.

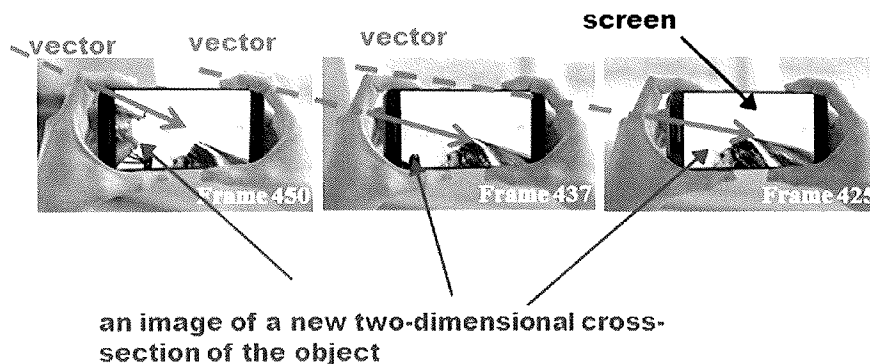


Figure 29. ...the screen of the por...

<sup>21</sup> <https://facebook360.fb.com/360-photos>

<sup>22</sup> <https://www.apple.com/iphone-8/specs/>

<sup>23</sup> <https://developer.android.com/about/versions/android-4.4>

109. “the screen of the portable unit displays an image of a new two-dimensional cross-section of the object corresponding to the vector.” In Figure 29, new two-dimensional cross-section images of the object are displayed on the screen as illustrated in Figure 29.

110. **Exhibit 8** presents a claim chart comparing the Exemplary ‘698 Patent Claims to *Facebook 360*. As set forth in the claim chart, *Facebook 360* practices the technology claimed by the ‘698 Patent. Accordingly, *Facebook 360* being incorporated in these charts satisfies all elements of the Exemplary ‘698 Patent Claims.

111. **Induced Infringement.** Defendant actively, knowingly, and intentionally has been and continues to induce infringement of the ‘698 Patent, literally or by the doctrine of equivalence, by offering products and services to their users for use in end-user products in a manner that infringes one or more claims of the ‘698 Patent. For example, Facebook induces users to commit patent infringement by providing on its website page<sup>24</sup> a list of 14 different 360 Cameras that can be used with Facebook’s product and service *Facebook 360*. These 360 Cameras comprise: Panono, RICOH THETAS, SP360 4K, Z CAMS1, 360FLY 4K Pro, VIRB360, GiropticIO, Insta360 Air, Insta360 Nano, Insta360 Pro, ION360 U, LG 360 CAM(R105), MOTO 360 Camera, and Nokia Ozo.

112. **Contributory Infringement.** Defendant actively, knowingly, and intentionally has been and continues materially contribute to their own user’ infringement of the ‘698 Patent, literally or by the doctrine of equivalence, by offering products or services to their users for use in end-user products in a manner that infringes one or more claims of the ‘698 Patent. Facebook contributes to users committing patent infringement by providing on its website page ‘facebook360.fb.com/learn/’ a list of 14 different 360 Cameras that can be used with Facebook’s product and service *Facebook 360* (see above).

113. **Exhibit 8** presents *Facebook 360* practicing the technology claimed by the ‘698

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<sup>24</sup> <https://facebook360.fb.com/learn/>

Patent. Accordingly, *Facebook 360* being incorporated in the claim chart satisfies all elements of the Exemplary '698 Patent Claims.

114. Gabara therefore incorporates by reference in its allegations herein the claim chart of **Exhibit 8**.

115. Gabara is entitled to recover damages adequate to compensate for Defendant's infringement.

#### **COUNT 4: 'FACEBOOK 360' INFRINGEMENT OF THE '400 PATENT IN THE PATENTS-IN-SUIT**

116. Gabara re-alleges and incorporates by reference the allegations of the paragraphs 1-57 of this Complaint as though fully set forth herein.

117. **Direct Infringement.** Defendant knowingly and actively aided and abetted the direct infringement of one or more claims of the '400 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, that infringe at least exemplary **claims 1-6, 8-14, and 16-20** of the '400 Patent (the " '400 Patent Claims") literally or by the doctrine of equivalence. *Facebook 360* when used on portable units directly and/or indirectly develops, designs, manufactures, distributes, markets, offers to sell and/or sells infringing products and services in the United States, including in the District of Southern New York, and otherwise purposefully directs infringing activities to this District in connection with its products and services.

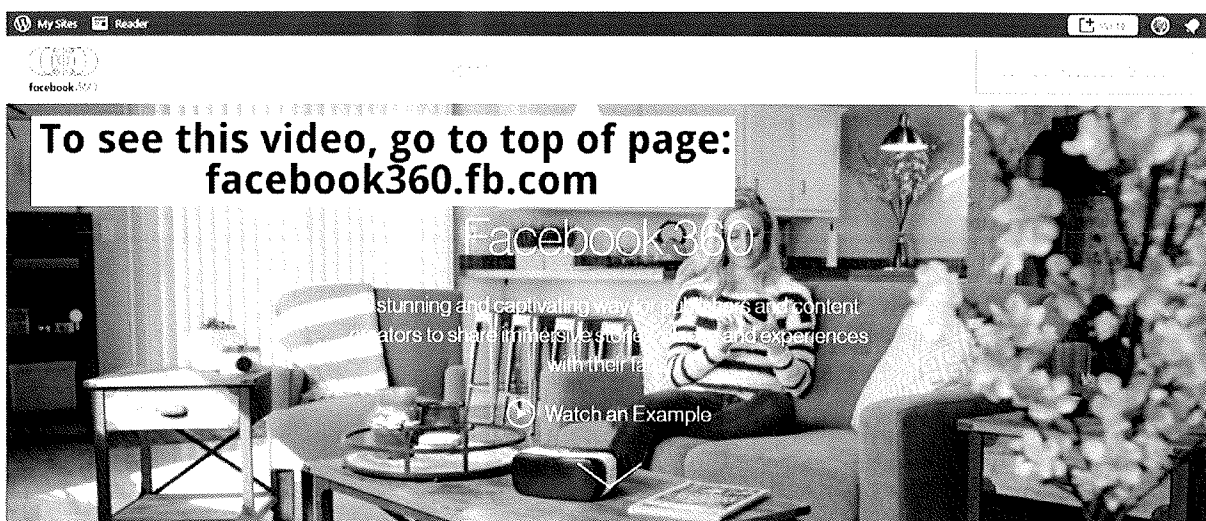
118. On information and belief, numerous other services that Facebook offers, such as, Instagram, WhatsApp, News Feed, Facebook Live, Video, Instant Articles, Branded Content, Messenger, Today in Availability, Pages, Audience Network, Ad Breaks, and Ads on Facebook, also infringe the claims of the '400 Patent and have been made, used, sold, imported,



and offered for sale by Defendant and/or its users when used with *Facebook 360*.

119. Despite such actual knowledge, Defendant continues to make, use, test, sell, offer for sale, market, and/or import into the United States, products that infringe the '400 Patent. On information and belief, Defendant has also continued to distribute product literature and website materials inducing end users and others to use its products in the customary and intended manner that infringes the '400 Patent. Thus, on information and belief, Defendant is directly infringing, contributing to and/or inducing the infringement of the '400 Patent.

120. Defendant infringes **claim 1** of the '400 patent, as presented below. Facebook has posted a repeating video that the Plaintiff has used to demonstrate the infringement of Plaintiff's Patents-in-Suit. One of the starting frames of the posted video is illustrated in **Figure 30**. This video continuously repeats at the top of the webpage.<sup>25</sup>



**Figure 30. Frames from the *Facebook 360* 'video' located at the top of the page are extracted and used to show infringement of Plaintiff's Patents-in-Suit.**

121. In the following description, the claim elements are recited in *italics*, while the frames 230, 234, 388, 398, 430, 435, 440, and 445 were selected from the video<sup>26</sup> illustrated in

<sup>25</sup> <https://facebook360.fb.com/> The proper operation of the video seems to be platform dependent, replacing the video, in some cases, with an unchanging image on some Android phones.

<sup>26</sup> Frames 230, 234, 388, 398, 430, 435, 440, and 445 selected from the video using Blender (a free and open source 3D creation suite). The video was posted by Facebook on their website *Facebook 360*: web address = <https://facebook360.fb.com/> The frames were extracted from Facebook's site on 10/20/19; The video can also be accessed directly at: [https://s0.wp.com/wp-content/themes/vip/fbspherical/media/home\\_bg\\_video\\_720.mp4](https://s0.wp.com/wp-content/themes/vip/fbspherical/media/home_bg_video_720.mp4)

Figure 30 and are used to present the infringement.

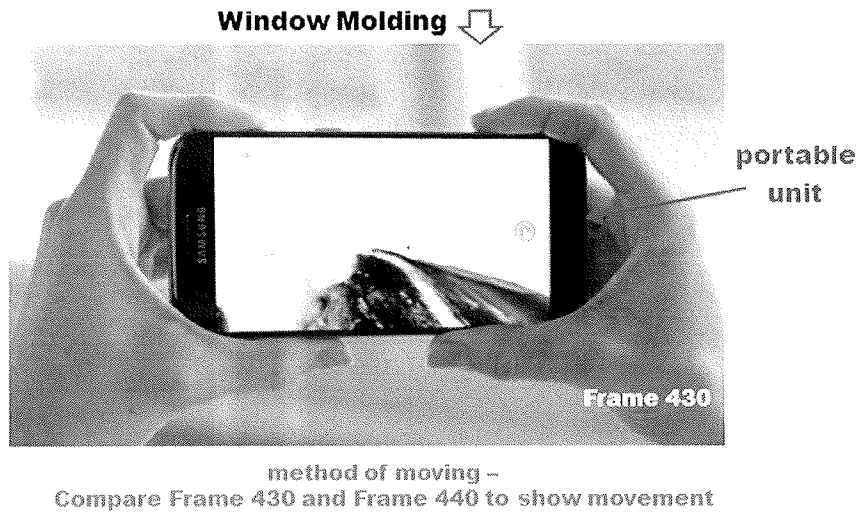


Figure 31. A portable unit ...

122. “*A method of moving a portable unit*” In Figure 31, frame 430 depicts the **portable unit**. Note the position of the Window molding.

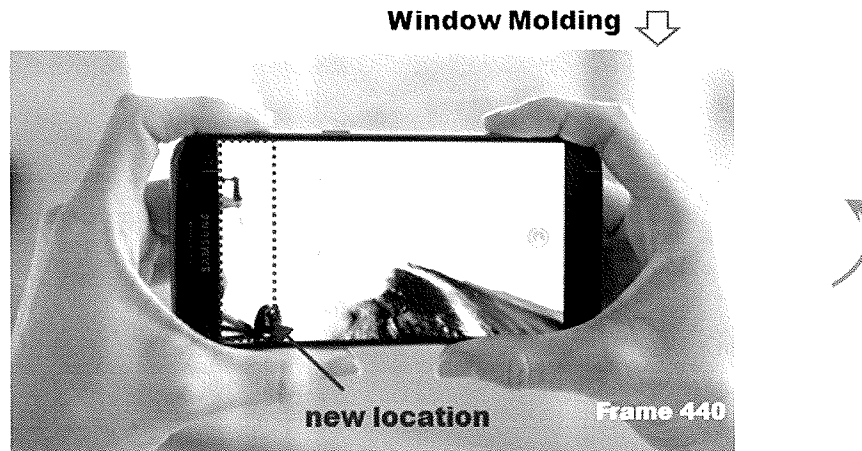


Figure 32. ... a background image of a stat...

123. “*to search for a new location comprising the steps of:*” In Figure 32, frame 440 illustrates a **new location** after the **portable unit** had been **moved**. Note the new position of the Window Molding in the background.

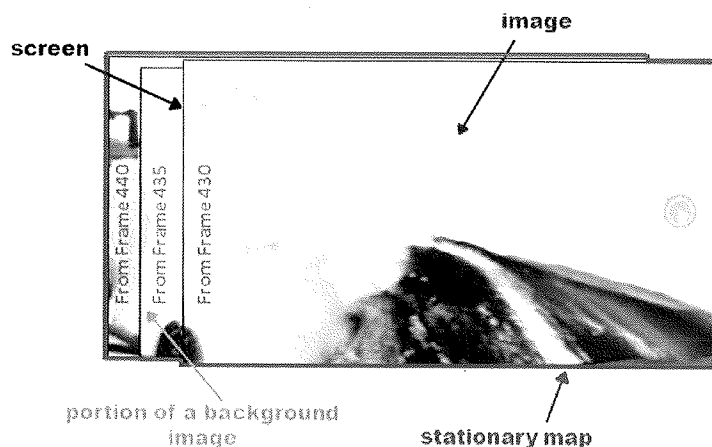


Figure 33. ...a second location in the back...

124. “displaying an *image* on a *screen* of the *portable unit* matched and superimposed to a corresponding *portion of a background image* of a *stationary map*,” In **Figure 33**, frame 430 presents the *image* as seen on the **screen** of the **portable unit** which also corresponds to the superimposed **background image** that is associated with the **stationary map**. The **portions** of a **background image** presented in frames 435 and 440 that are newer are coupled together (like jigsaw pieces) to the initial *image* proving a picture of the larger **stationary map**.

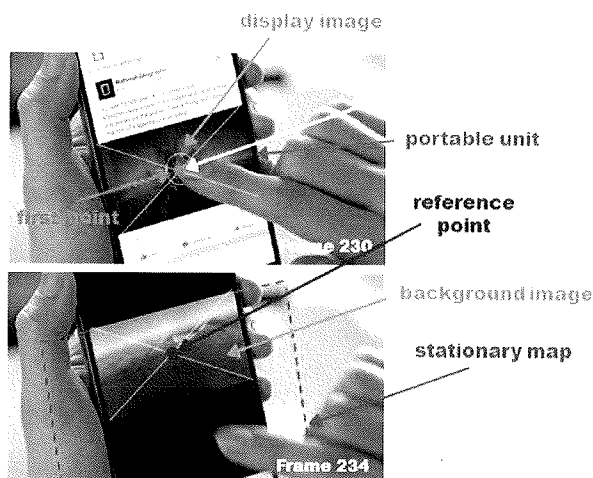


Figure 34. ... an image display...

125. “mapping a *first point* of the *display image* located in a center of the screen of the *portable unit* to a corresponding *reference point* in the *background image* of the *stationary* map.”

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map;” In Figure 34, the first point in frame 230 is mapped to the corresponding reference point in frame 234. The first point and the display image (similar to that of Figure 2) are in the center of the screen of the portable unit as shown in frame 230.

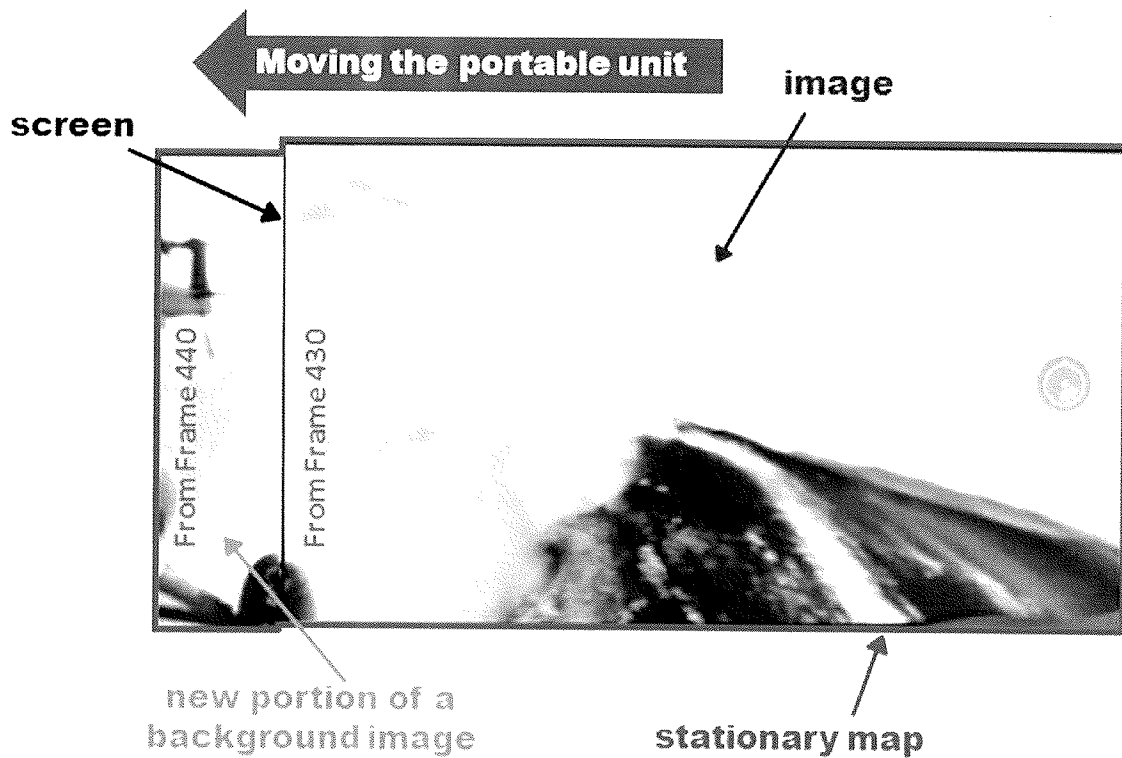


Figure 35. ...a diagonal of the screen le...

126. “moving the portable unit to display a new portion of the background image of the stationary map on the screen; and” Frames 430 in Figure 35 shows the background image of the stationary map being presented on the screen of the portable unit. As the portable unit is moved to the left, a new portion of the background image is presented on the screen as shown in frame 440.

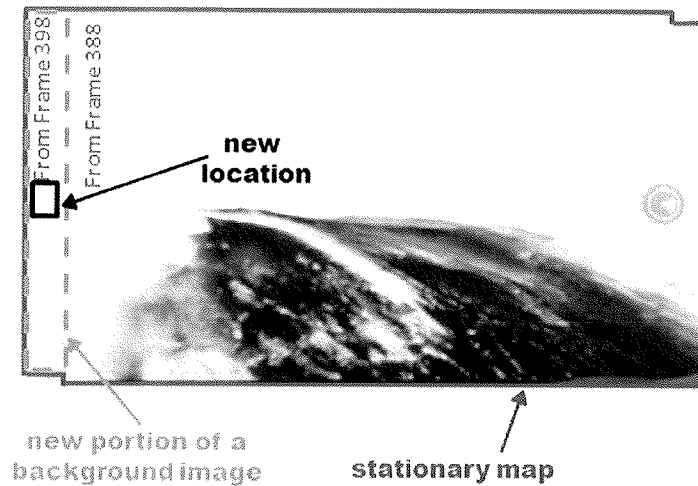


Figure 36. ...only the first location in the back...

127. “*identifying a new location in the new portion of the background image;*” In Figure 36, a new location is illustrated by the black square in the new portion of the background image.

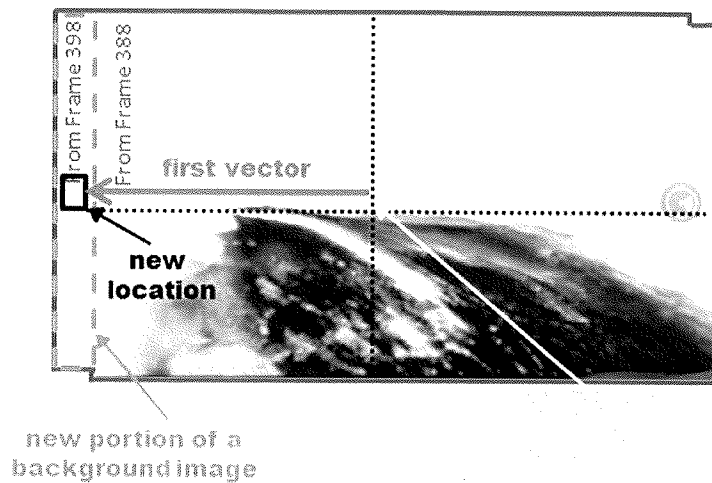


Figure 37. ...the portable unit is mov...

128. “*determining a first vector between the center of the screen of the portable unit and the new location; and*” In Figure 37, a first vector is determined between the center of the screen and the new location.



VIRB360, GiropticIO, Insta360 Air, Insta360 Nano, Insta360 Pro, ION360 U, LG 360 CAM(R105), MOTO 360 Camera, and Nokia Ozo.

132. **Contributory Infringement.** Defendant actively, knowingly, and intentionally has been and continues materially contribute to their own user' infringement of the '400 Patent, literally or by the doctrine of equivalence, by offering products or services to their users for use in end-user products in a manner that infringes one or more claims of the '400 Patent. Facebook contributes to users committing patent infringement by providing on its website page 'facebook360.fb.com/learn/' a list of 14 different 360 Cameras that can be used with Facebook's product and service *Facebook 360* (see above).

133. **Exhibit 9** presents *Facebook 360* practicing the technology claimed by the '400 Patent. Accordingly, *Facebook 360* being incorporated in the claim chart satisfies all elements of the Exemplary '400 Patent Claims.

134. Gabara therefore incorporates by reference in its allegations herein the claim chart of **Exhibit 9**.

135. Gabara is entitled to recover damages adequate to compensate for Defendant's infringement.

## **COUNT 5: '3D PHOTOS' INFRINGEMENT OF THE '131 PATENT IN THE PATENTS-IN-SUIT**

136. Gabara re-alleges and incorporates by reference the allegations of the paragraphs 1-57 of this Complaint as though fully set forth herein.

137. **Direct Infringement.** Defendant knowingly and actively aided and abetted the

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direct infringement of one or more claims of the ‘131 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, that infringe at least exemplary **claims 1-6, 8-13, and 15-20** of the ‘131 Patent (the “ ‘131 Patent Claims”) literally or by the doctrine of equivalence. *3D photos* when used on portable units directly and/or indirectly develops, designs, manufactures, distributes, markets, offers to sell and/or sells infringing products and services in the United States, including in the District of Southern New York, and otherwise purposefully directs infringing activities to this District in connection with its products and services.

138. On information and belief, numerous other services that Facebook offers, such as, Instagram, WhatsApp, News Feed, Facebook Live, Video, Instant Articles, Branded Content, Messenger, Today in Availability, Pages, Audience Network, Ad Breaks, and Ads on Facebook, also infringe the claims of the ‘131 Patent and have been made, used, sold, imported, and offered for sale by Defendant and/or its users when used with *3D photos*.

139. Despite such actual knowledge, Defendant continues to make, use, test, sell, offer for sale, market, and/or import into the United States, products that infringe the ‘131 Patent. On information and belief, Defendant has also continued to distribute product literature and website materials inducing end users and others to use its products in the customary and intended manner that infringes the ‘131 Patent. Thus, on information and belief, Defendant is directly infringing, contributing to and/or inducing the infringement of the ‘131 Patent.

140. Defendant infringes **claim 8** of the ‘131 patent, as presented below. Facebook has posted a clickable video that the Plaintiff has used to demonstrate the infringement of Plaintiff’s Patents-in-Suit. The header of the posted video is illustrated in **Figure 39**. The video is found after scrolling down Facebook’s webpage<sup>28</sup> and looking for the video header named “**How to Create 3D Photos**” as illustrated in **Figure 39**.

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<sup>28</sup> <https://facebook360.fb.com/2018/10/11/3d-photos-now-rolling-out-on-facebook-and-in-vr/> ; mid-way down page.





Figure 39. The header of the *3D Photos* clickable ‘video’ comprising the frames selected using Microsoft’s ‘Snipping Tool.’

141. In the following description, the claim elements are recited in *italics*, while the frames were selected from the video<sup>29</sup> illustrated in **Figure 39** and are used to depict the infringement.

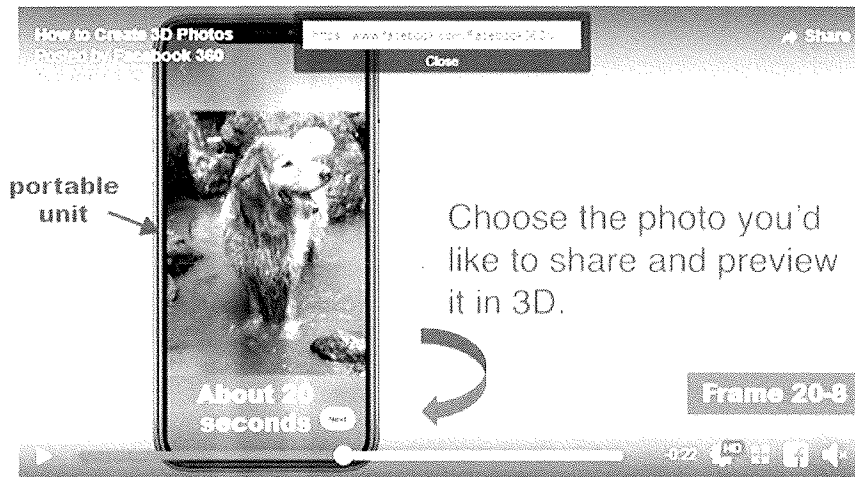


Figure 40. A portable unit ...

142. “*A portable unit comprising:*” In **Figure 40**, the frame 20-8 presents the **portable unit**.

<sup>29</sup> Frames were selected from the video using Microsoft’s ‘Snipping Tool’ as the mp4 source of the video could not be located. The ‘Frame 20-8’, for example, represents a snip of the image taken between 20 and 21 seconds into the video. The frames were extracted from Facebook’s site on 11/1/19; The video can also be accessed directly at: <https://www.facebook.com/Facebook360/videos/1757729227689232/>

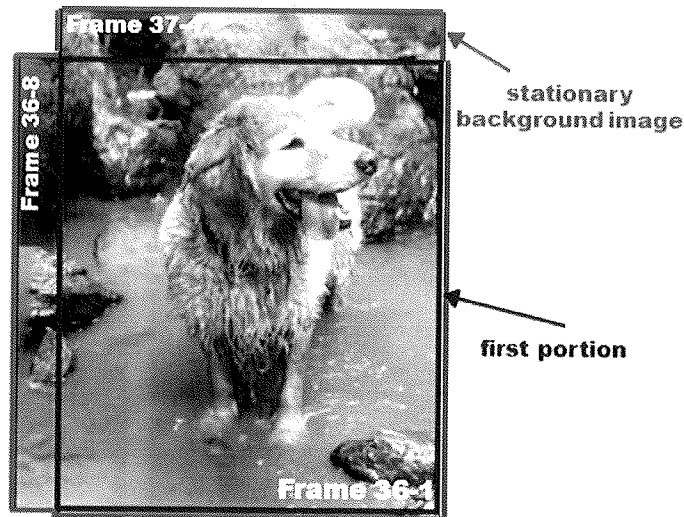


Figure 41. ...a first portion of a stat...

143. “*a first portion of a stationary background image*” In **Figure 41**, frame 36-1 shows the **first portion** which is a portion of the **stationary background image**. The **stationary background image** is a *composite* of the image of frame 36-1 combined with the exposed non-overlapping images of the two frames 36-8 and 37-4.

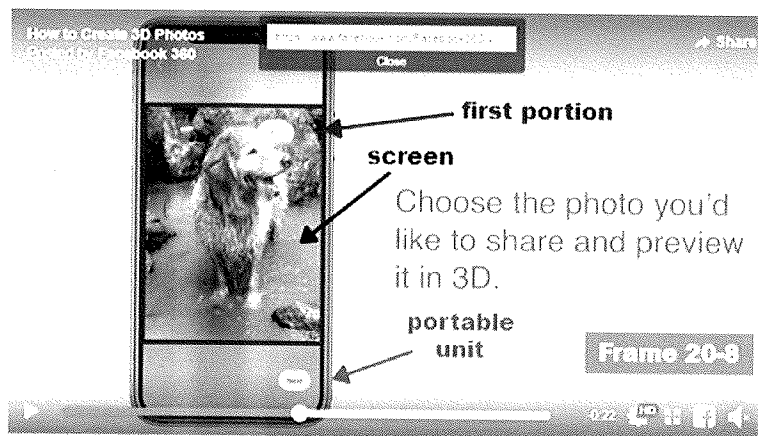


Figure 42. ...displayed on a screen ...

144. “*displayed on a screen of the portable unit;*” In **Figure 42**, frame 20-8 presents the **first portion** being currently displayed on the **screen** of the **portable unit**.

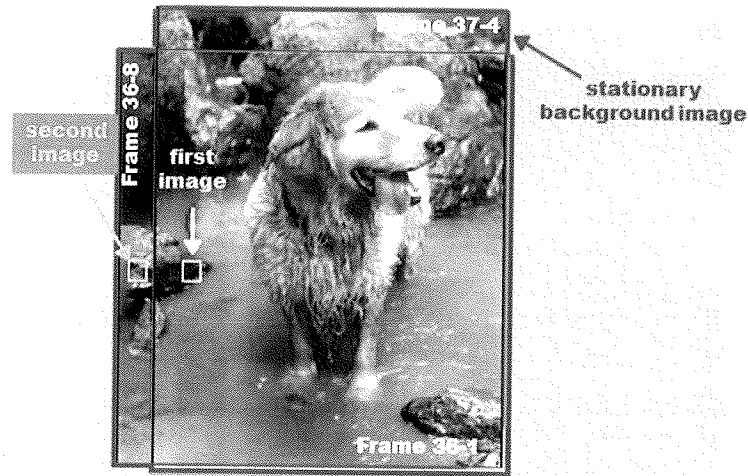


Figure 43. ... a first image and a sec...

145. “a **first image** and a **second image** located in the **stationary background image**,” The **first image** and the **second image** are within the green **stationary background image** (See **Figure 43**). The first image is currently visible on the screen; the second image is not visible on the screen.

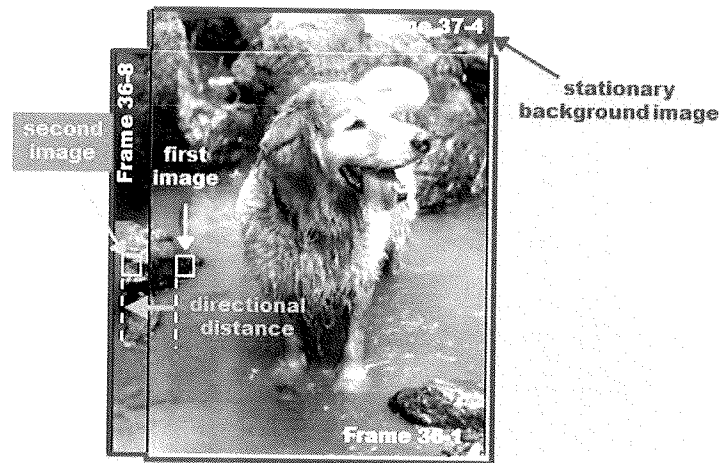


Figure 44. ...the second image in the stat...

146. “the **second image** in the **stationary background image** displaced from the first image in the stationary background image by a **directional distance**,” Comparing Frames 36-1 and 36-8 in **Figure 44**, the **directional distance** comprises a distance and/or a direction (angle) between the **first image** and the **second image**.

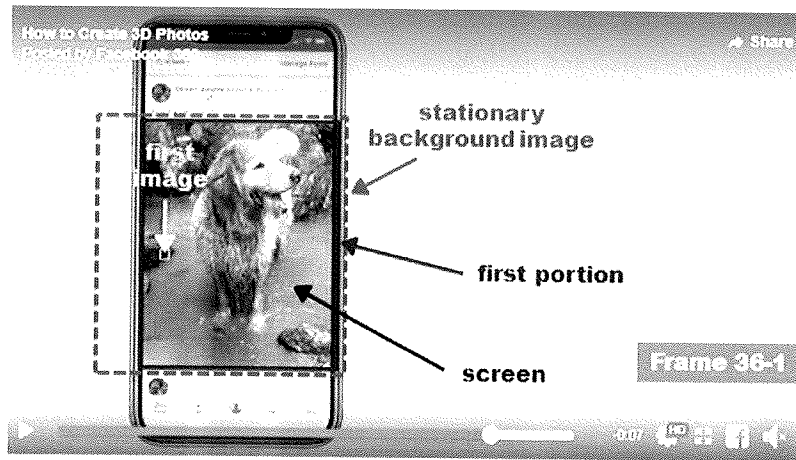


Figure 45. ...the first image in ...

147. “the **first image in the first portion of the stationary background image** displayed on the **screen of the portable unit, wherein**” To simplify the diagram, the **stationary background image** is assumed to only include the image overlay of frame 36-8 (the image corresponding to frame 37-4 is not represented). Frame 36-1 in **Figure 45** depicts the **first image in the first portion of the stationary background image** that is displayed on the **screen of the portable unit**.

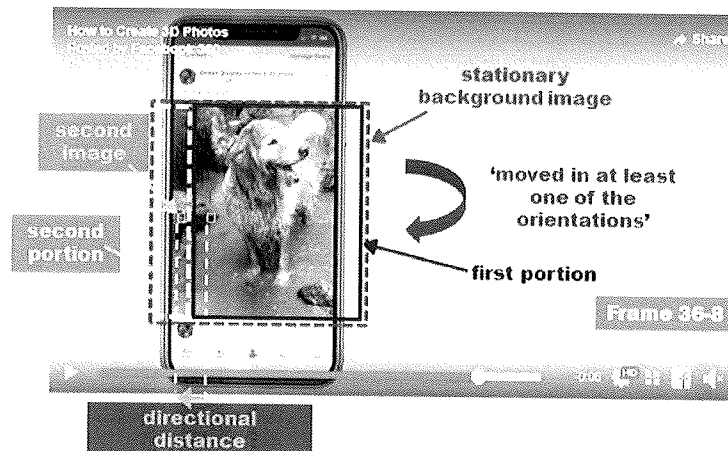


Figure 46. ...the second image in the stat...

148. “the **portable unit is moved in at least one of the orientations of the directional distance to display on the screen of the portable unit the second image located in a second portion of the stationary background image.**” By comparing frame 36-8 in **Figure 46** with

frame 36-1 in **Figure 45**, as the **portable unit** is **moved in at least one of the orientations** (in an angular rotation), the **screen** of the **portable unit** will display the **second portion** that contains the **second image**.

149. **Exhibit 10** presents a claim chart comparing the Exemplary ‘131 Patent Claims to *3D photos*. As set forth in the claim chart, *3D photos* practices the technology claimed by the ‘131 Patent. Accordingly, *3D photos* being incorporated in these charts satisfies all elements of the Exemplary ‘131 Patent Claims.

150. **Induced Infringement.** Defendant actively, knowingly, and intentionally has been and continues to induce infringement of the ‘131 Patent, literally or by the doctrine of equivalence, by offering products and services to their users for use in end-user products in a manner that infringes one or more claims of the ‘131 Patent. For example, Facebook induces users to commit patent infringement by providing on its website page<sup>30</sup> a list of 14 different 360 Cameras that can be used with Facebook’s product and service *3D photos*. These 360 Cameras comprise: Panono, RICOH THETAS, SP360 4K, Z CAMS1, 360FLY 4K Pro, VIRB360, GiropticIO, Insta360 Air, Insta360 Nano, Insta360 Pro, ION360 U, LG 360 CAM(R105), MOTO 360 Camera, and Nokia Ozo.

151. **Contributory Infringement.** Defendant actively, knowingly, and intentionally has been and continues materially contribute to their own user’ infringement of the ‘131 Patent, literally or by the doctrine of equivalence, by offering products or services to their users for use in end-user products in a manner that infringes one or more claims of the ‘131 Patent. Facebook contributes to users committing patent infringement by providing on its website page ‘facebook360.fb.com/learn/’ a list of 14 different 360 Cameras that can be used with Facebook’s product and service *3D photos* (see above).

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<sup>30</sup> <https://facebook360.fb.com/learn/>

152. **Exhibit 10** presents *3D photos* practicing the technology claimed by the '131 Patent. Accordingly, *3D photos* being incorporated in the claim chart satisfies all elements of the Exemplary '131 Patent Claims.

153. Gabara therefore incorporates by reference in its allegations herein the claim chart of **Exhibit 10**.

### **COUNT 6: '*WORKPLACE BY FACEBOOK*' INFRINGEMENT OF THE '348 PATENT IN THE PATENTS-IN-SUIT**

154. Gabara re-alleges and incorporates by reference the allegations of the paragraphs 1-57 of this Complaint as though fully set forth herein.

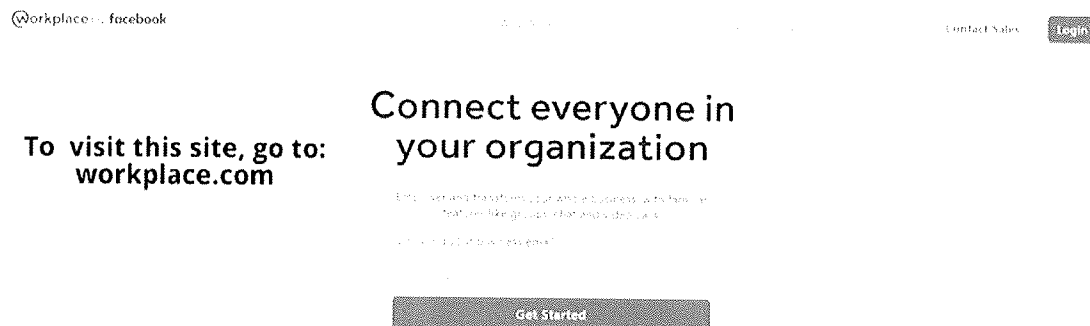
155. **Direct Infringement.** Defendant knowingly and actively aided and abetted the direct infringement of one or more claims of the '348 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, that infringe at least exemplary **claims 1-19** of the '348 Patent (the " '348 Patent Claims") literally or by the doctrine of equivalence. '*Workplace by Facebook*' directly and/or indirectly develops, designs, manufactures, distributes, markets, offers to sell and/or sells infringing products and services in the United States, including in the District of Southern New York, and otherwise purposefully directs infringing activities to this District in connection with its products and services.

156. On information and belief, numerous other services that *Workplace by Facebook* offers comprises the following: Instant Messaging, Lead generation in Messenger, Auto-Translate, Collaboration Spaces, Org Chart, News Feed, Live Video, Video Conferencing and Integrations, also infringe the claims of the '348 Patent and have been made, used, sold,

imported, and offered for sale by Defendant and/or its users when used with *Workplace by Facebook*.

157. Despite such actual knowledge, Defendant continues to make, use, test, sell, offer for sale, market, and/or import into the United States, products that infringe the ‘348 Patent. On information and belief, Defendant has also continued to distribute product literature and website materials inducing end users and others to use its products in the customary and intended manner that infringes the ‘348 Patent. Thus, on information and belief, Defendant is directly infringing, contributing to and/or inducing the infringement of the ‘348 Patent.

158. Defendant infringes **claim 7** of the ‘348 patent, as presented below. Facebook has virtual world websites for ‘*Workplace by Facebook*’<sup>31</sup>, for ‘Facebook for developers’<sup>32</sup> and for ‘wit.ai’<sup>33</sup> that the Plaintiff has used to find evidence in the infringement of Plaintiff’s Patents-in-Suit. Microsoft’s snipping tool was used to capture the images presented on these three websites. The top of the Facebook’s webpage ‘*Workplace by Facebook*’ is illustrated in **Figure 47**.



**Figure 47. The front page image of Facebook’s virtual page of ‘*Workplace by Facebook*’<sup>34</sup> that is presented to new visitors.**

159. In the following description, the claim elements are recited in italics, while the evidence was selected from the three previously mentioned websites and are used to describe

<sup>31</sup> <https://www.workplace.com/>

<sup>32</sup> <https://developers.facebook.com/docs/>

<sup>33</sup> <http://wit.ai>

<sup>34</sup> <https://www.workplace.com/>

and depict the infringement.

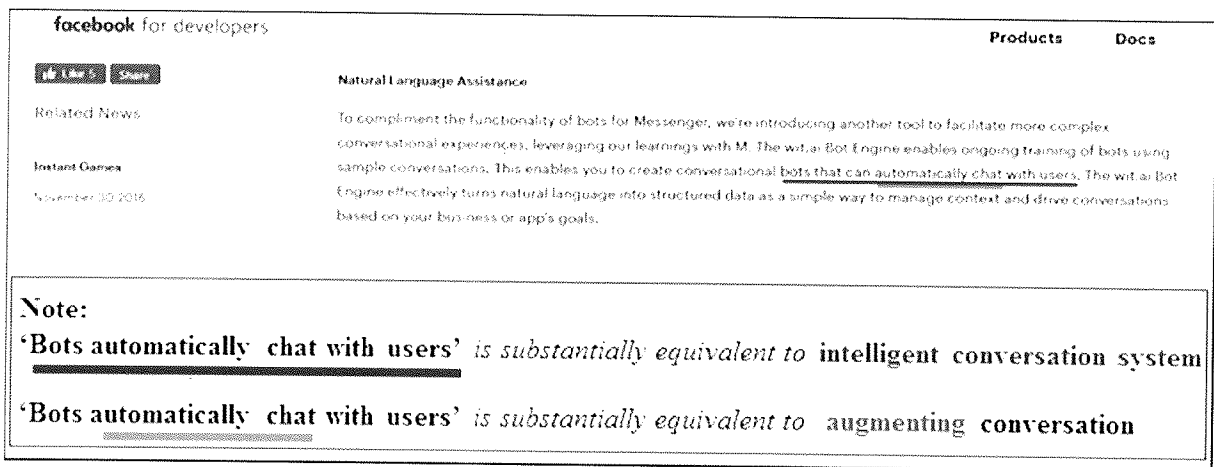


Figure 48. An intelligent con...

160. "An intelligent conversation system augmenting," In Figure 48, the term '*bots automatically chat with others*' is substantially equivalent to 'intelligent conversation system.' '*Bots automatically chat*' is substantially equivalent to 'augmenting.'

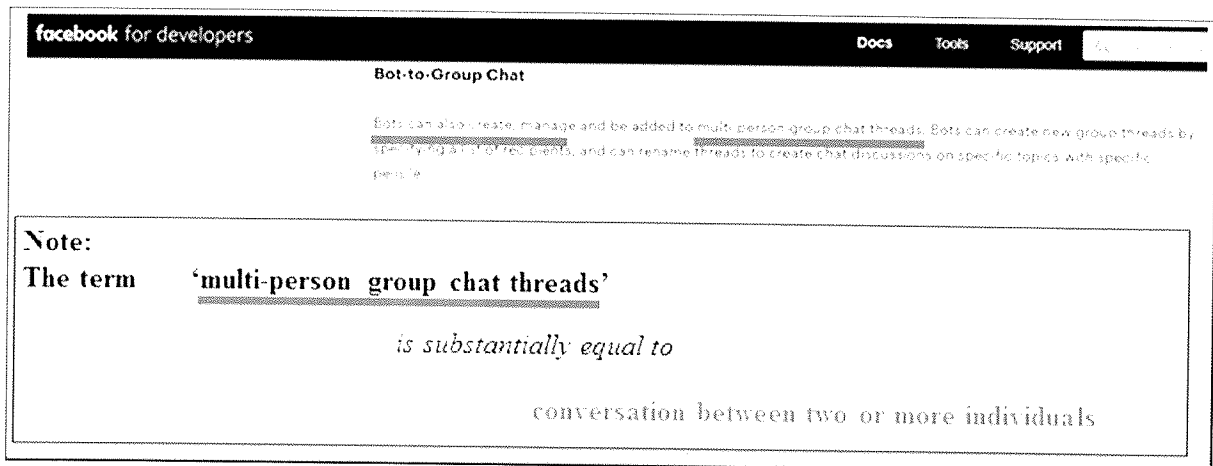


Figure 49. ...a conversation between ...

161. "a conversation between two or more individuals comprising:" In Figure 49, in the Bot-to-Group section, a '*multi-person group chat threads*' is substantially equivalent to 'conversation between two or more individuals.'



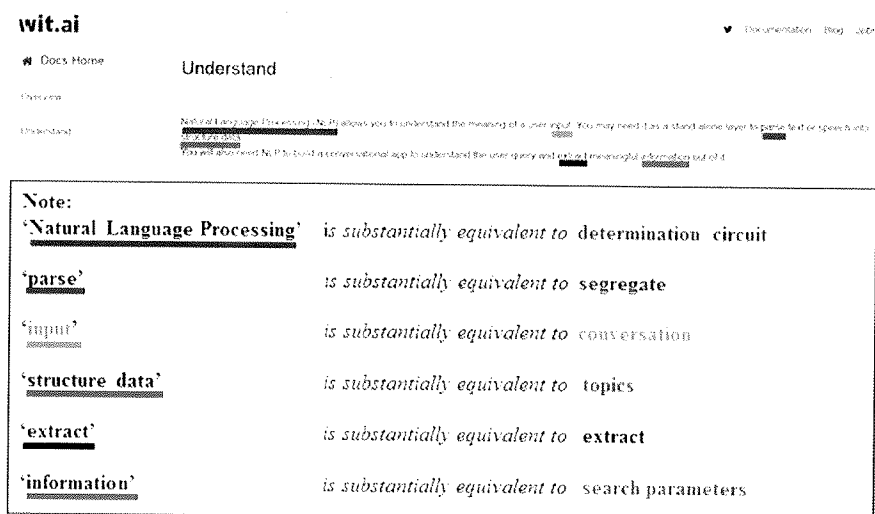


Figure 50. ...a determination cir ...

162. “a determination circuit configured to segregate the conversation into topics and to extract search parameters from the topics, wherein” In Figure 50, wit.ai’s Natural Language Processing is substantially equivalent to ‘determination circuit’. The term ‘parse text or speech’ is substantially equivalent to ‘segregate the conversaton into topics’. The term ‘into’ is substantially equivalent to ‘extract’. The term ‘structure data’ is substantially equivalent to ‘search parameters’.

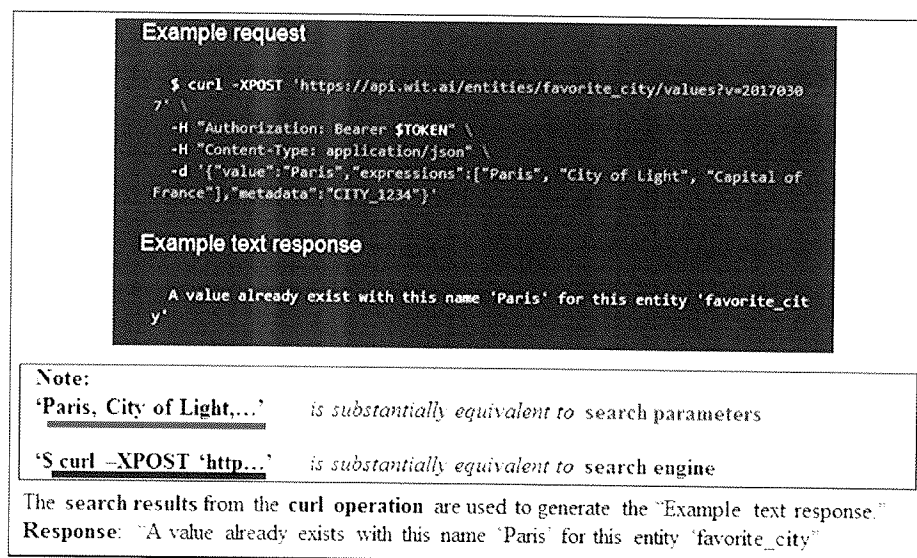
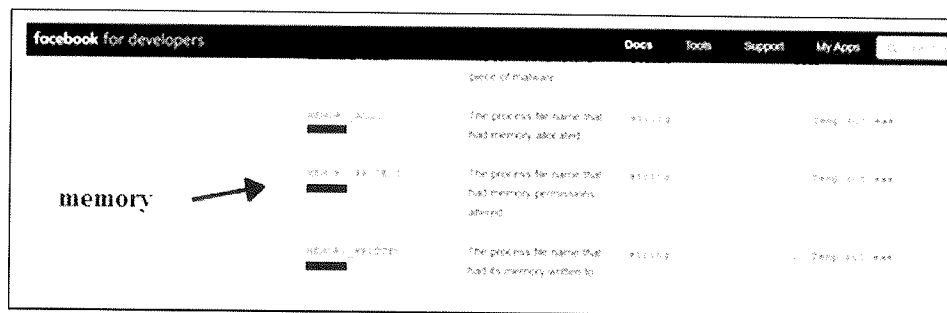


Figure 51. ...the search parameters ...

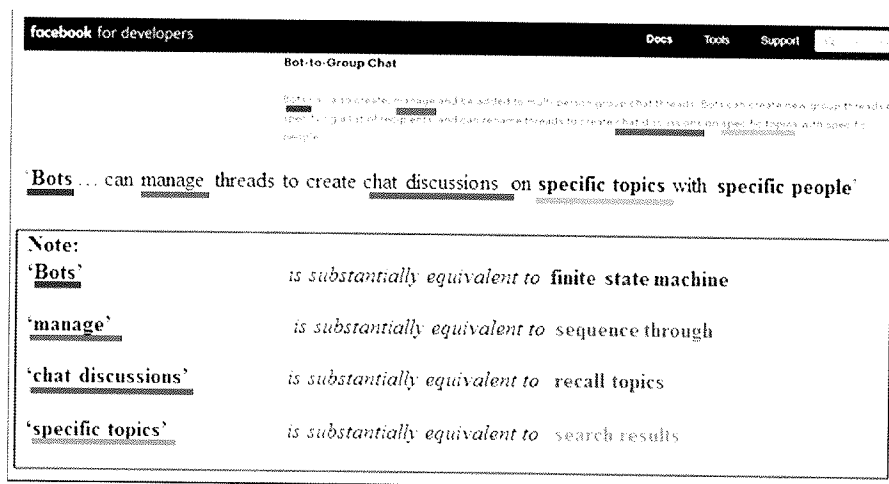
163. “the search parameters are sent to a search engine and search results

corresponding to the *search parameters* are received from the *search engine*;" In **Figure 51**, the words, '**Paris, City of Light, Capitol of France**' are substantially equivalent to the **search parameters**, the '**curl -XPOST http://api.wit.ai/entites/favorite...**' is substantially equivalent to the **search engine**, and the '**Example test response**' is substantially equivalent to the **search results**.



**Figure 52. ...a memory configured ...**

164. “a *memory configured to store the search results*; in **Figure 52** shows potential threats that may develop in Facebook’s virtual memory world. *Workplace by Facebook* uses several layers of cache owned by Facebook. Memory is used between block elements to hold data for the next calculation.



**Figure 53. ...a finite state machine...**

165. “a *finite state machine configured to sequence through the search results to*

*generate recall topics.*” Looking at **Figure 53**, ‘Bots’ are substantially equivalent to the **finite state machine**, ‘manage’ is substantially equivalent to **sequence through**, ‘chat discussions’ are substantially equivalent to **recall topics**, and ‘specific topics’ is substantially equivalent to **search results**.

166. **Exhibit 11** presents a claim chart comparing the Exemplary ‘348 Patent Claims to *Workplace by Facebook*. As set forth in the claim chart, *Workplace by Facebook* practices the technology claimed by the ‘348 Patent. Accordingly, *Workplace by Facebook* being incorporated in these charts satisfies all elements of the Exemplary ‘348 Patent Claims.

167. **Induced Infringement.** Defendant actively, knowingly, and intentionally has been and continues to induce infringement of the ‘348 Patent, literally or by the doctrine of equivalence, by offering products and services to their users for use in end-user products in a manner that infringes one or more claims of the ‘348 Patent. For example, Facebook induces users to commit patent infringement by providing *Workplace by Facebook* on its website<sup>35</sup> to some of its customers: PricewaterhouseCoopers, Okta, Inc., Box, Inc.<sup>36</sup>, Walmart, Air Asia, Booking.com, Campbell’s, Heineken, Spotify, Domino’s, Starbucks, and Algar Telecom<sup>37</sup>.

168. **Contributory Infringement.** Defendant actively, knowingly, and intentionally has been and continues materially contribute to their own user’ infringement of the ‘348 Patent, literally or by the doctrine of equivalence, by offering products or services to their users for use in end-user products in a manner that infringes one or more claims of the ‘348 Patent. Facebook contributes to users committing patent infringement by providing on its website page ‘workplace.com’ the ability of Facebook’s customers to access the service of *Workplace by Facebook*.

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<sup>35</sup> <https://www.workplace.com/>

<sup>36</sup> <https://www.facebook.com/workplace/partners>

<sup>37</sup> [https://www.workplace.com/?fbclid=IwAR1zC3yUYIuyBHbSJ87NI3Wfi22I\\_WaHeheLaBXarPVjFAkCy5BMZhEkbvs](https://www.workplace.com/?fbclid=IwAR1zC3yUYIuyBHbSJ87NI3Wfi22I_WaHeheLaBXarPVjFAkCy5BMZhEkbvs)

169. **Exhibit 11** presents *Workplace by Facebook* practicing the technology claimed by the ‘348 Patent. Accordingly, *Workplace by Facebook* being incorporated in the claim chart satisfies all elements of the Exemplary ‘348 Patent Claims.

170. Gabara therefore incorporates by reference in its allegations herein the claim chart of **Exhibit 11**.

### **JURY DEMAND**

171. Under Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully requests a trial by jury on all issues so triable.

### **PRAAYER FOR RELIEF**

WHEREFORE, Gabara respectfully requests the following relief:

- A. an entry of judgment holding that Facebook infringed, is infringing, induced, and is inducing infringement of the Patents-in-Suit;
- B. a preliminary and permanent injunction against Facebook and its officers, employees, agents, servants, attorneys, subsidiaries, affiliates, divisions, directors, from infringing and inducing infringement of the Patents-in-Suit, and for all further and proper injunctive relief pursuant to 35 U.S.C. § 283;
- C. an award to Gabara of such past damages, not less than a reasonable royalty, as it shall prove at trial against Facebook that is adequate to fully compensate Gabara for Facebook’s infringement of the Patents-in-Suit;
- D. a determination that Facebook’s infringement has been willful, wanton, and deliberate and that the damages against it be increased up to treble on this basis or for any other basis in accordance with the law;
- E. a finding that this case is “exceptional” and an award to Gabara of its costs and reasonable

attorneys' fees, as provided by 35 U.S.C. § 285;

F. an accounting of all infringing sales and revenues, together with post-judgment interest and pre-judgment interest from the first date of infringement of the Patents-in-Suit; and

G. such further and other relief as the Court may deem proper and just.

Dated: November 15, 2019

Respectfully submitted by:

Thaddeus Gabara

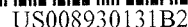
By: 

Thaddeus Gabara

P.O. Box 512

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# Exhibit 1



(10) **Patent No.:** US 8,930,131 B2  
(45) **Date of Patent:** Jan. 6, 2015

(51) **Int. Cl.**  
*G06T 15/00* (2011.01)  
*G01C 21/36* (2006.01)  
*G09B 29/00* (2006.01)  
*G09B 29/10* (2006.01)  
*G09G 5/02* (2006.01)

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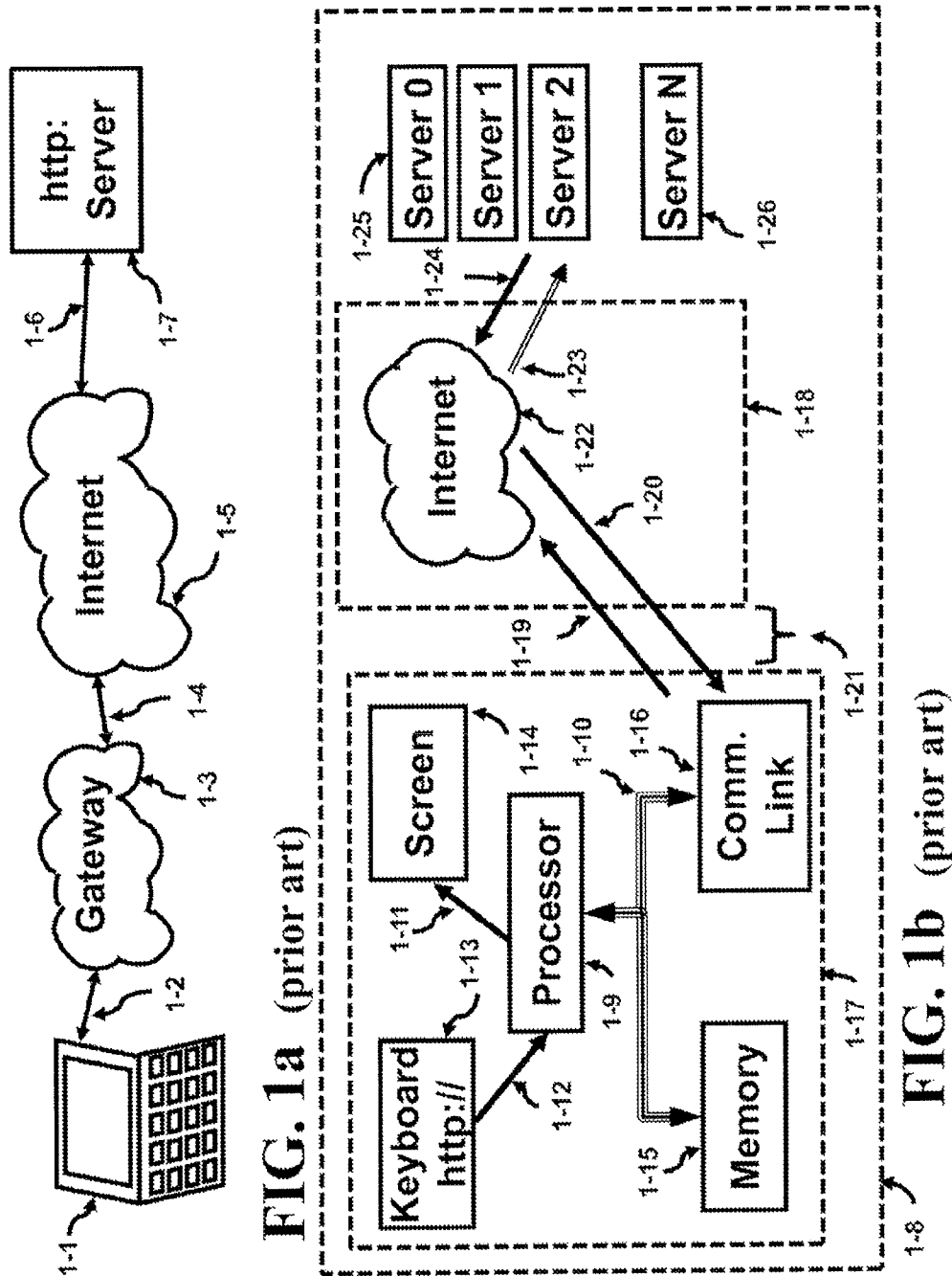
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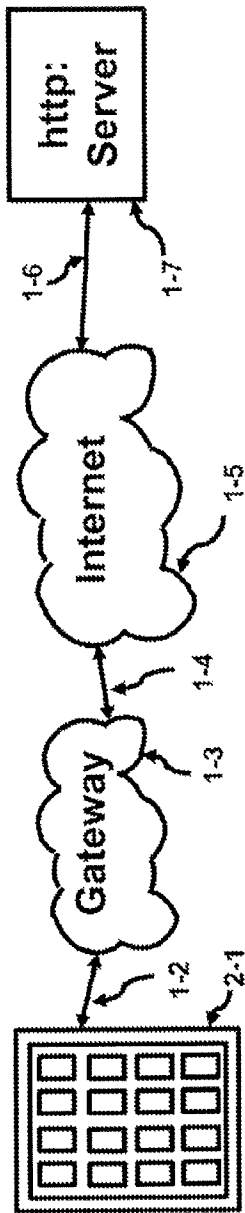
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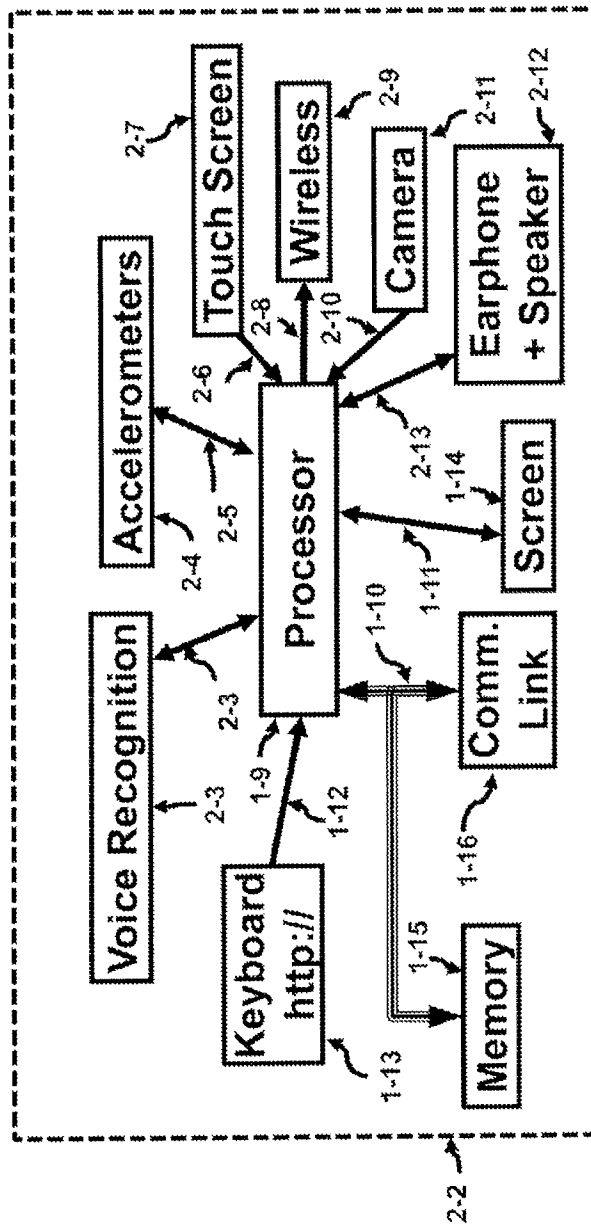
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**FIG. 2a (prior art)**



**FIG. 2b** (prior art)

FIG. 3a

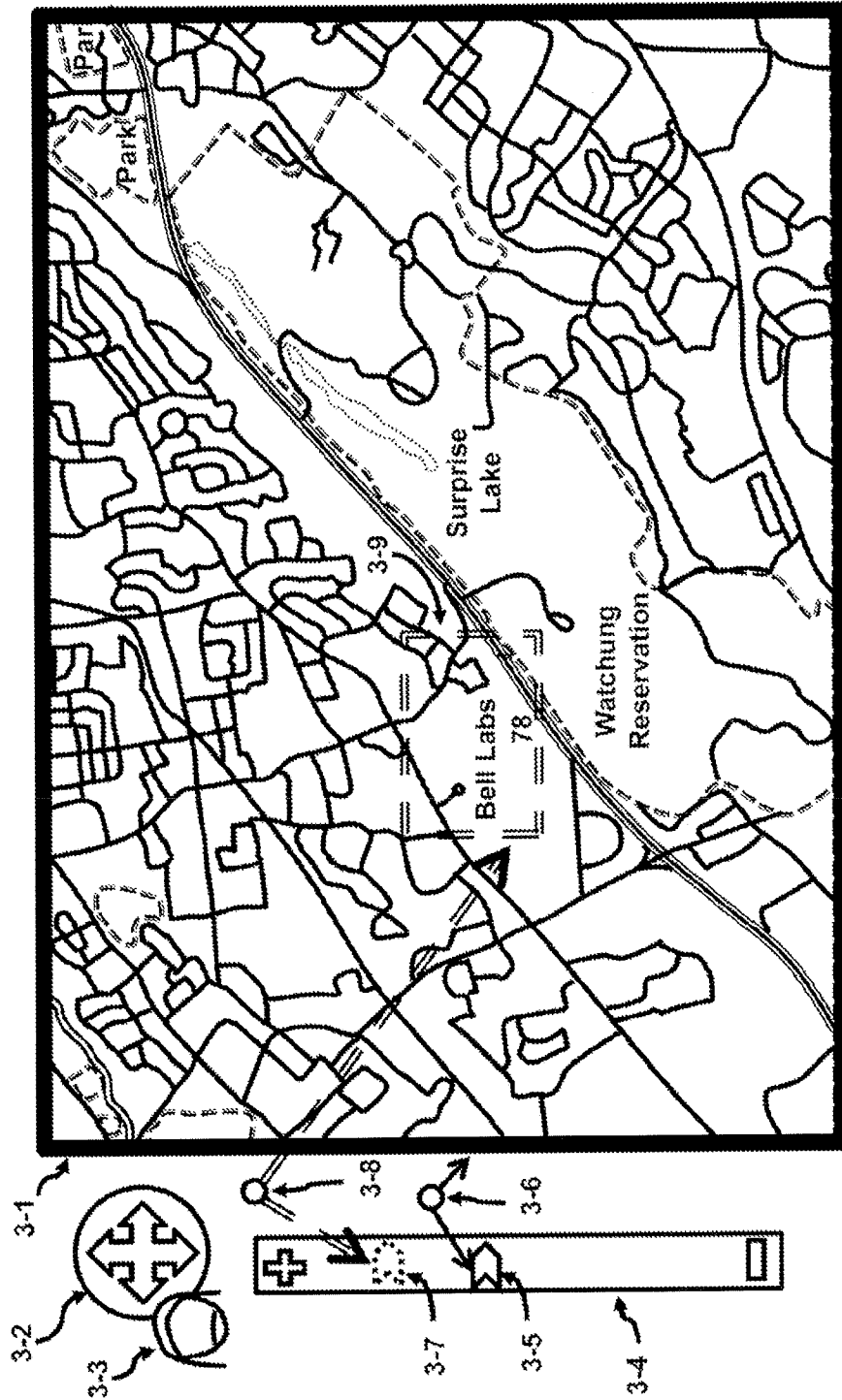


FIG. 3b

